

PHMSA
Coastal USAs Public Meeting

November 17, 2017

Regulations.gov Docket No. PHMSA-2017-0094

Comments of Rebecca Craven, Program Director
Pipeline Safety Trust



Credible.
Independent.
In the public interest.

How did we get here?

- 2016 PIPES Act issues unusually explicit directive:

*The Secretary of Transportation **shall revise** section 195.6(b) of title 49, Code of Federal Regulations, to explicitly state that the Great Lakes, coastal beaches, and marine coastal waters are USA ecological resources for purposes of determining whether a pipeline is in a high consequence area (as defined in section 195.450 of such title).*

Issues to Resolve

- Definitions for the regulations
- How those defined areas are mapped as HCAs (sources, etc.)
- How operators will be held accountable for properly identifying and updating HCAs

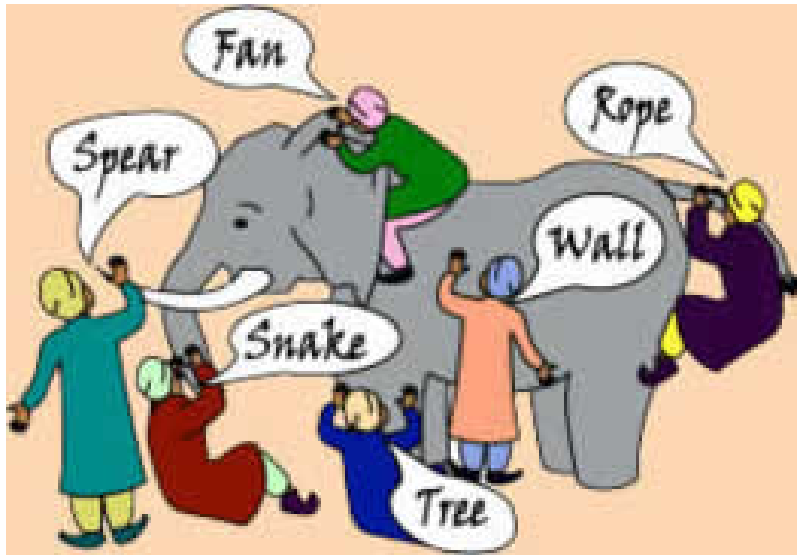
Connection between this effort and:

a) Identification of “waters where a substantial likelihood of commercial navigation exists”

b) How that identification requirement is applied to operators

Combined with a lack of transparency in NPMS

It's like the blind men describing an elephant



Except the public doesn't even get to touch the elephant: we can't see how HCAs are mapped by PHMSA, how/whether operators adequately identify them, or even what processes they use to do so.

We hear:

- “waters where a substantial likelihood of commercial navigation exists” and think:



But somehow we got from: “waters where a substantial likelihood of commercial navigation exists”

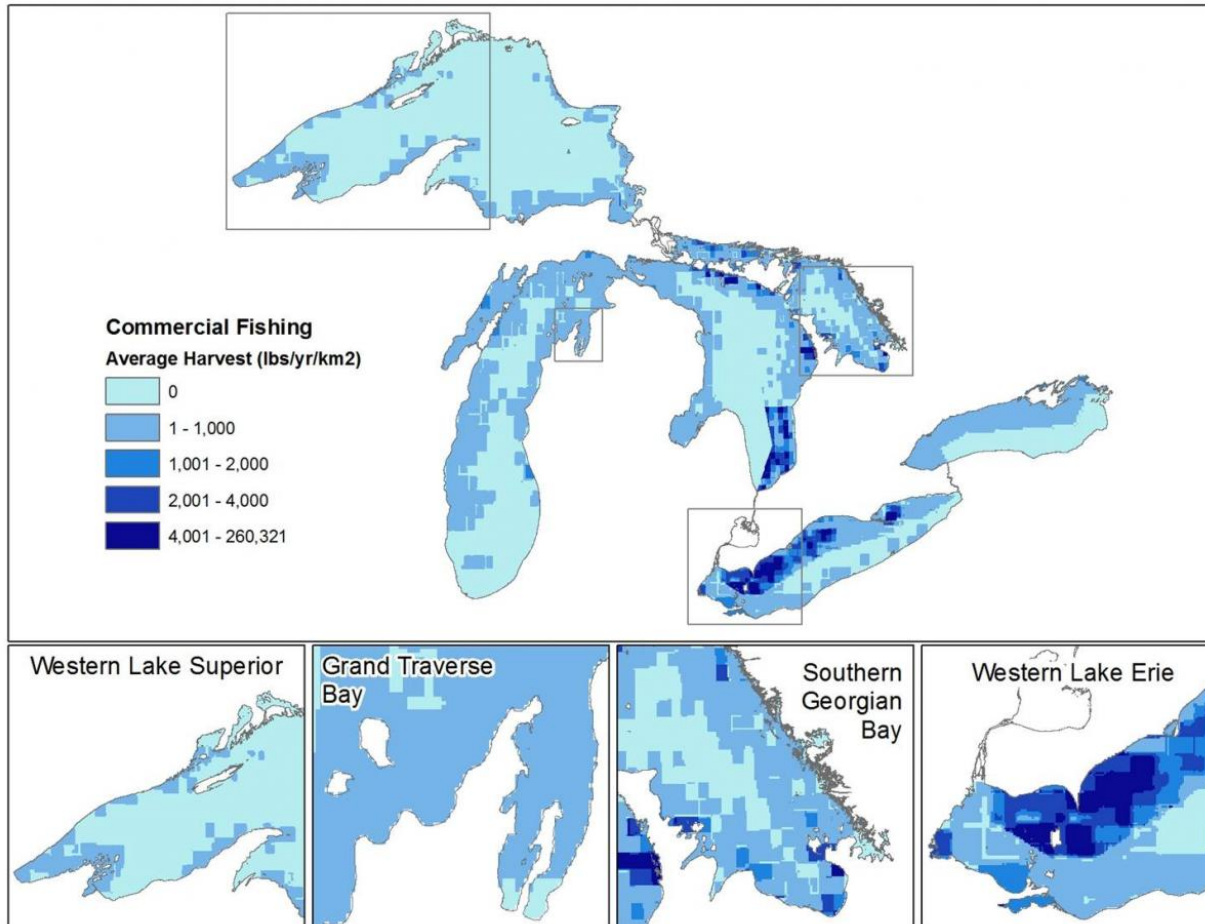
To:



Pipeline Safety
TRUST

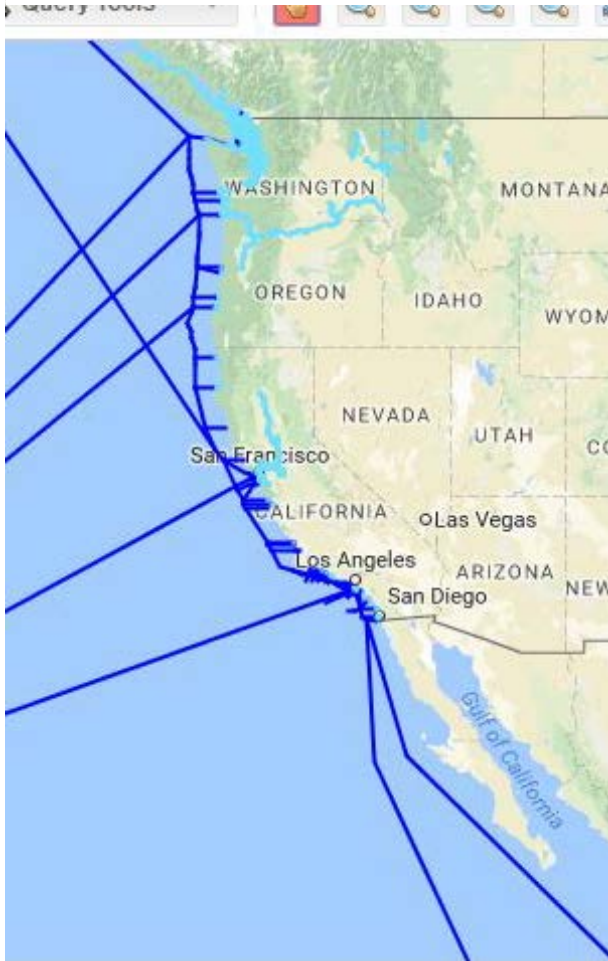
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Commercial fishing use



Source: GLEAN:
greatlakesmapping.org

Maps ≠ Definitions



- Choosing to exclude commercial fishing, charter fishing, charter recreational vessel use from identified areas
- Allowing areas to be excluded by operators if there is a possible reroute – another way around to port, as if interruptions to freight carriers is the only consequence that matters in identifying these high consequence areas.

So, now:

“explicitly state that the Great Lakes, coastal beaches, and marine coastal waters are [USAs]”



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Our advice?

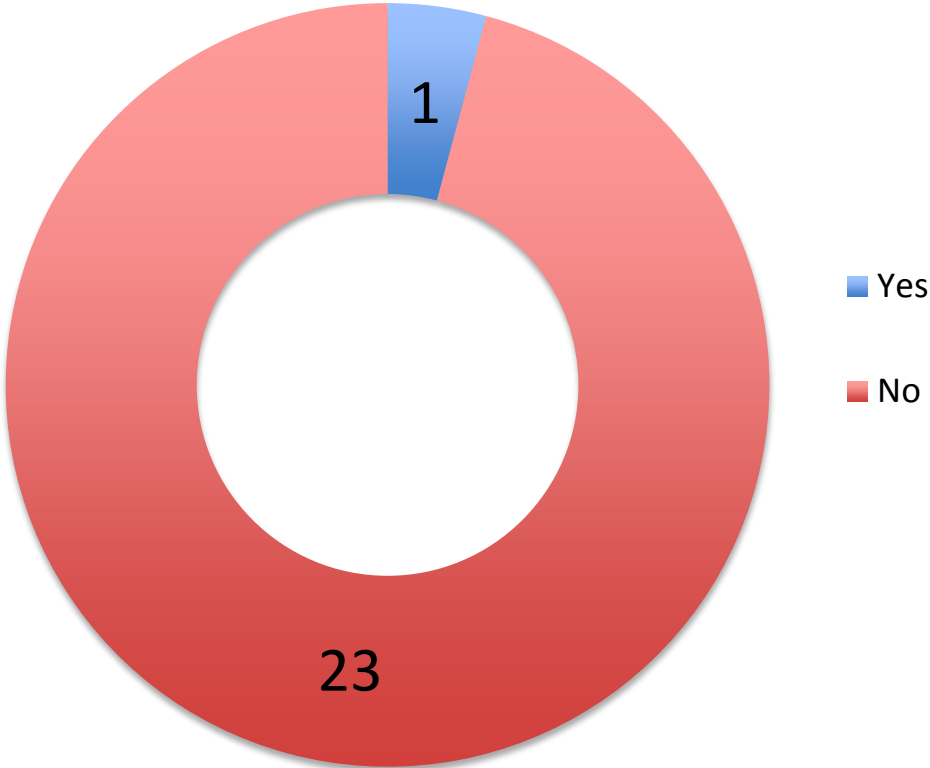
- Use definitions that already exist and matter jurisdictionally, for title, or in common sense:
- e.g., for the Great Lakes: ordinary high water mark; adjoining wetlands; connecting locks and canals and seaways
- e.g., for coastal beaches and marine coastal waters: All of the shoreline of the U.S. up to the higher of highest high tide line or the upper limit of wave or sea ice action; and into estuaries and rivers to a point where there is no longer seawater mixing

Advice, cont'd

- Make all HCA mapping (excepting drinking water sources) available on the public viewer of NPMS, along with shapefiles and Excel lists.
- Hold operators accountable for compliance with Appendix C in identifying and updating their HCAs

In October 2017 we asked the Emergency Planners in the 30 counties in Washington State that have pipelines "Have you ever been asked by a pipeline company or a pipeline safety regulator to review designated pipeline "High Consequence Areas" in your jurisdiction?"

Received responses from 24 emergency planners representing 16 different counties



Advice, cont'd

Make those choices of definitions and data sources with an eye on

- how the operators will be held accountable and
- whether the public will be able to recognize the maps you draw as the thing you are describing

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Thanks!

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