

Enforcement



U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

PHMSA: Your Safety is Our Mission

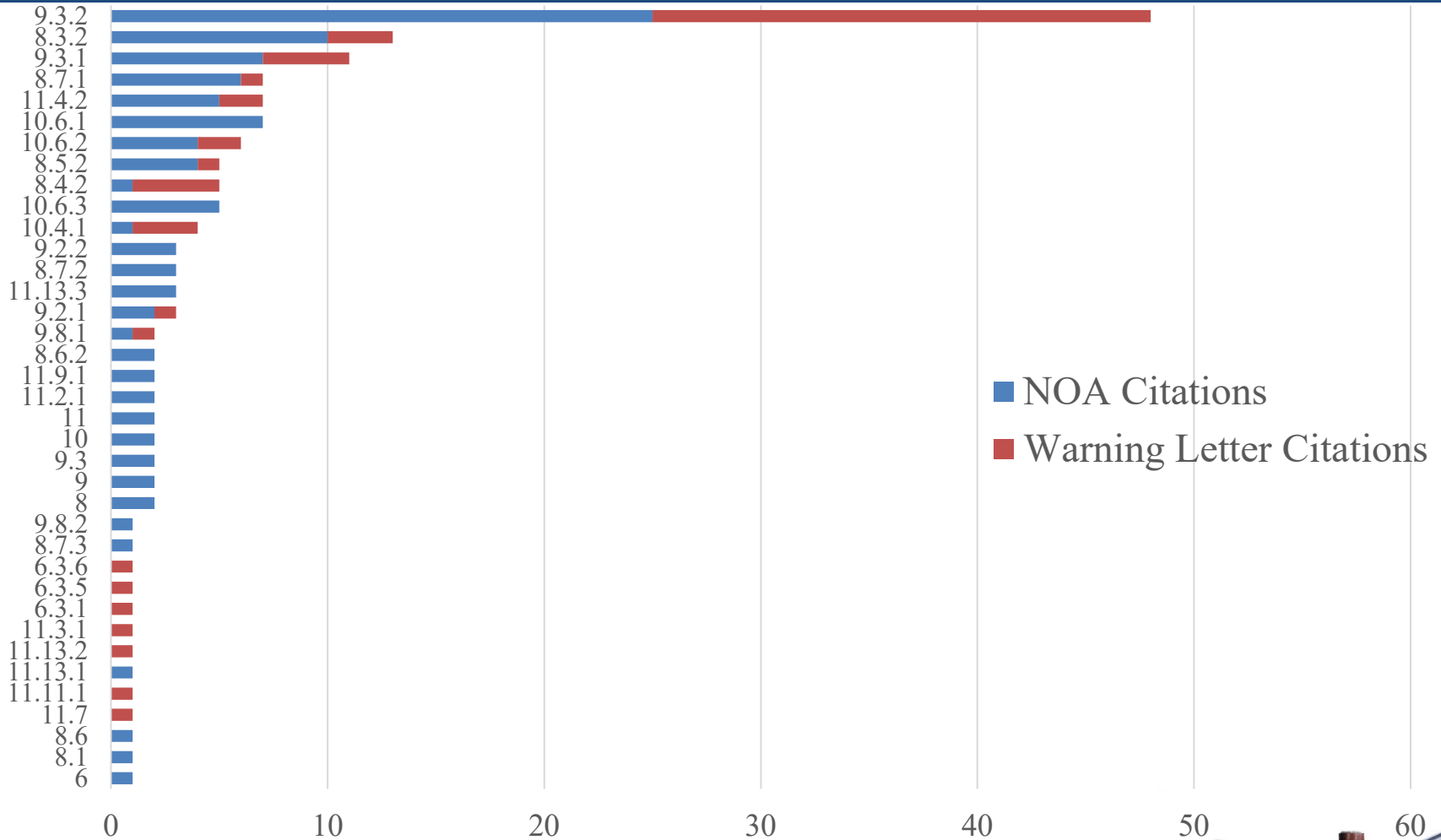


Enforcement Items-thru 4/2023

	NOPV items	NOPSOs	Warning Letter Items	Notice of Amendment Items	All Proposed items
2018			6	16	22
2019			9	28	37
2020	1		28	26	55
2021			29	43	72
2022		1	41	27	69
2023			5	6	11
Total	1	1	118	146	266



of Enforcement Items By RP 1171 Subsection Cited



Enforcement Options

- Enforcement Actions That Allege an Operator Did Not Satisfy a Cited Requirement (in the sense of either violating a requirement, or that a required procedure or plan is not adequate)
 - Notice of Probable Violation
 - Warning Item
 - Notice of Amendment
- Other Enforcement Actions
 - Corrective Action Order
 - Safety Order
 - Letter of Concern



Notice of Probable Violation

- A letter alleging existence of one or more probable violations
- A statement of the evidence upon which each allegation is based
- Proposes a civil penalty or a compliance order (or both) for at least one of the probable violations
- Informs the operator of its response options



Warning Letter/Item

- When a probable violation is identified, but the circumstances do not warrant a proposed civil penalty or a proposed compliance order, a warning is appropriate
- Warnings may be communicated in a separate Warning Letter or as a warning item in a Notice of Probable Violation
- If all the probable violations in a letter are warning items, the letter is a Warning Letter – not a Notice of Probable Violation



What is a Notice of Amendment?

- A letter alleging **inadequate** plans or procedures
- Advises operator to correct **inadequate** plans or procedures
- Provides response options



Notice of Amendment

- **Inadequate** operator plans or procedures are not probable violations, but are instead addressed with Notices of Amendment
- However, problems with required plans or procedures judged to be more serious than **inadequate** may be probable violations



What are inadequate plans or procedures?

- Repeat or paraphrase the regulatory text, instead of providing instructions for how to implement regulatory requirements
- Provide instructions for compliance in a vague, general, or conflicting manner that offers little or no practical or meaningful guidance, and therefore increases the likelihood of error, confusion, or the exercise of poor judgment by the operator
- Contain procedural omissions or technical errors (including lack of technical basis)



Letter of Concern (LOC)

- Letter that identifies areas of concern, but does not allege violations, nor cite code sections
- Requests (but does not require) operator address these concerns



What are “Concerns”?

- Aspects of safety program that do not conform to sound safety management and/or engineering practices – even though the operator is not out of compliance
- Issues with technical soundness of practices observed in the field
- Deteriorating conditions that although currently in compliance, could become out of compliance over time if not addressed



ANY
QUESTIONS

