

# **PHMSA's Hazardous Materials Inspection Process**

**David Smith  
Investigator, Southwest Region  
Field Operations**

**<http://phmsa.dot.gov/hazmat>**

**Dallas, TX  
July 12 & 13, 2016**



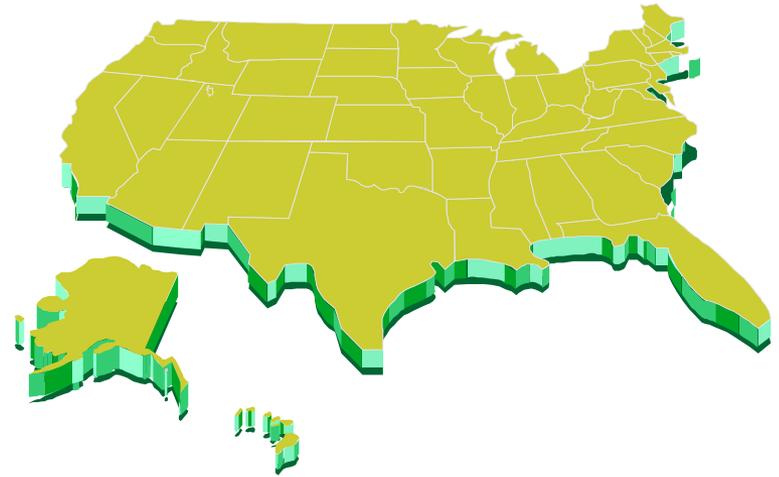
# Hazmat Shipments in the U.S.

The Department of Transportation (DOT) currently lists approximately 3,000 hazardous materials (hazmat) descriptions – these materials, if accidentally or intentionally released, can pose risks to public health and safety, property, or the environment.

**Over 1,000,000 Shipments Daily**

**2.2 Billion Tons Shipped Annually  
by All Modes**

**Hazardous Materials Support  
\$1.5 Trillion of US Economy Annually**

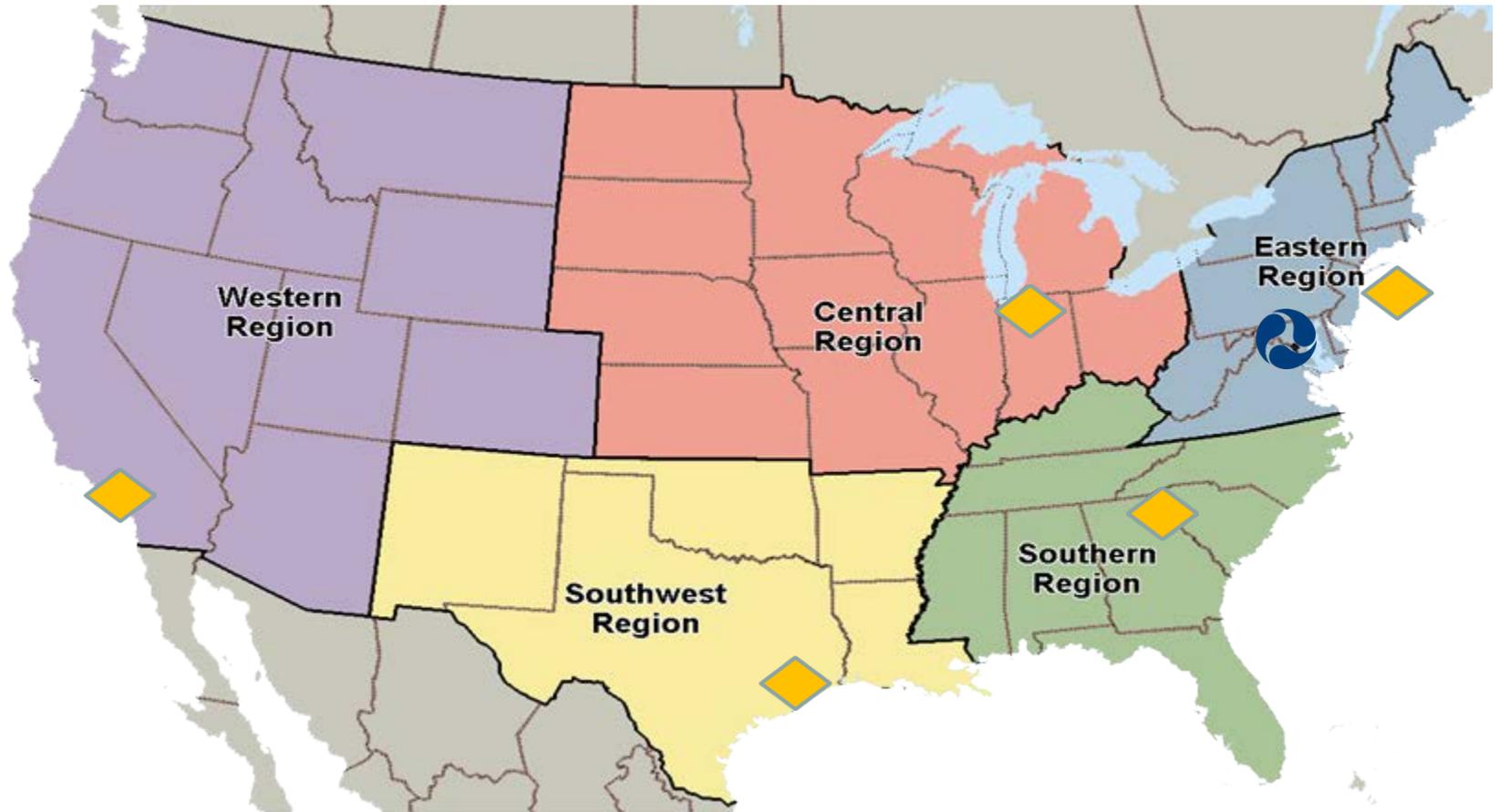


# Office of Hazardous Materials Safety (OHMS)

- “Protect the nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce” [49 U.S.C. 5101]
- Ensures and promotes the safety, security and performance of the nations hazardous materials transportation system through its nationwide field operations.
- Operational activities that include compliance, incident and accident inspections and investigations; safety, performance and regulatory adequacy and fitness determinations; outreach, education and training activities; and reporting feedback, information and intelligence through its oversight of hazardous materials shippers, carriers and the manufacture, requalification, recondition, maintenance and use of hazardous materials packaging.
- To determine the adequacy and clarity of the regulations for which the hazardous material transportation activities are based.



# OHMS Field Operations Regions



# Who does PHMSA Regulate?

- **Shippers/Carriers (HAZMAT)**
  - Explosives
  - Radioactive Materials
  - Select Agents and Infectious Substances
  - Lithium Batteries
  - Waste
- **Freight Forwarders**
- **Third-Party Labs**
- **Special Permit Holders**
- **Cylinder Requalifiers**
- **Aerosol Fillers/Shippers**
- **Agricultural Industry**
- **Packaging Manufacturers**
  - Tanks, Drums, IBCs, Cylinders, Boxes, etc...
- **Packaging Self-Certifiers**
- **Distributors/Brokers**
- **High Hazard Entities**



# Why Me?

- Complaints
- High Risk (PIH/TIH)
- Investigations
- Re-Inspections
- Observations
- Incident History
- Fitness Review
- Registered Entity
- Abatements



# The Inspection Process

## ■ Introduction

- Getting in the Door
- General Information/Overview

## ■ Items Reviewed

- What are we looking for?
- Will vary depending on type of inspection

## ■ Evidence Gathering

- Interviews, Documentation, Photographs, etc.

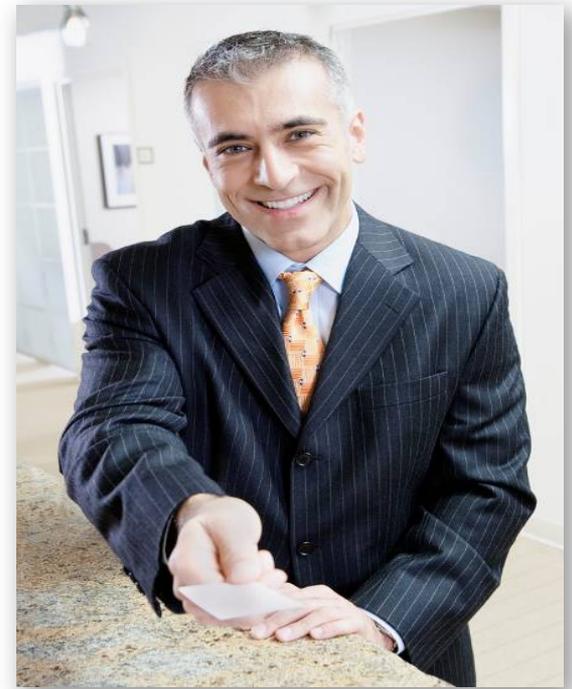
## ■ Closing the Inspection

- Security Inspection Report, Exit Briefing, etc.



# The Inspection Process - Introduction

- Identification
- Purpose of Inspection
- PHMSA Overview
- General Info Gathering
  - Representative
  - Contact Info
  - Tax ID Number
- Company Profile
  - What do you do?
    - Manufacture, Test, Fill, Ship?



# The Inspection Process – Items Reviewed

## ■ Observations

- Processes and Procedures
- Testing Equipment
- Manufacturing Equipment
- Packaging
- Shipping Papers/BOL
- Marking and Labeling
- Training
- Registration
- Security Plan



# The Inspection Process – Evidence Gathering (Documentation)

- Package Certifications
- Production Records
- Closure Instructions
- Training Records
- Registration
- Invoices/Receiving Records
- Material Safety Data Sheets
- Retest Records



# The Inspection Process – Evidence Gathering (Documentation)

## ■ Shipping Papers

- Description/Sequence
- Quantity and Type
  - Placards Required?
- Certification Statement
- Signature
- Emergency Response #
- Additional Information
  - Special Permits, LTD QTY, RQ, Technical Names, etc.
- Retention (2 Years)





# The Inspection Process – Evidence Gathering (Photographs)



# The Inspection Process – Closing the Inspection

## ■ Security Inspection Report

- Required for certain Commodities and Quantities
- Verifies components of Security Plan
  - Risk Assessment
  - Personnel Security
  - Unauthorized Access
  - En-Route Security

## ■ Security Awareness

- How to recognize and respond to a threat?
- Training Complete?
- Within 90 Days of Hire?

## ■ In-Depth Security

- Training on your Security Plan



# Security Inspection Report

INVESTIGATIVE NOTES  
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES



PIPELINE AND HAZARDOUS MATERIAL SAFETY ADMINISTRATION  
HAZMAT SECURITY INSPECTION REPORT

Inspection Date: \_\_\_\_\_

Facility Name and Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Company Officials Interviewed: \_\_\_\_\_ Title: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## SECURITY PLAN

Identify the material(s) below requiring a Hazardous Materials Security Plan:	
1.1, 1.2, 1.3	Any quantity.
1.4, 1.5, 1.6	Placarded quantity.
2.1	A large bulk quantity.
2.2	A large bulk quantity of material with an oxidizer subsidiary. Any quantity PIH (e.g. Anhydrous ammonia).
2.3	Any quantity.
3	PG I and II in a large bulk quantity. Placarded quantity desensitized explosives.
4.1	Placarded quantity desensitized explosives.
4.2	PG I and II in a large bulk quantity.
4.3	Placarded quantity.
5.1	PG I and II in a large bulk quantity. PG III perchlorates, ammonium nitrate, ammonium nitrate fertilizers, or ammonium nitrate emulsions, suspensions, or gels in a large bulk quantity.
5.2	Any quantity of Organic peroxide, Type B, liquid or solid, temperature controlled.
6.1	Any quantity PIH. A large bulk quantity of a material that is not a PIH.
6.2	Any quantity of a select agent or toxin listed by CDC or USDA (42 CFR, Part 73 or 9 CFR, Part 121).
7	International Atomic Energy Agency Category 1 & 2 sources. Highway Route Controlled Quantities. Known Radionuclides in forms listed as Quantities of Concern by the Nuclear Regulatory Commission. Placarded quantity of uranium hexafluoride.
8	PG I in a large bulk quantity.

"Large Bulk Quantity" refers to a quantity greater than 3,000 kg (6,614 lbs) for solids or 3,000 L (792 gal) for liquids and gases in a single packaging such as a cargo tank motor vehicle, portable tank, tank car, or other bulk container.

INVESTIGATIVE NOTES  
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES



# The Inspection Process – Closing the Inspection

## ■ Exit Briefing

- A “Field Report” not a “Final Report”
- Used to summarize the inspection and notate “probable violations” and 49 CFR cites, if any
- Investigator will review document with company official and provide guidance with regard to deficiencies
- Request corrective action and refer to penalty guidelines
- Obtain signature(s) and provide copies



# Exit Briefing



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

Office of Hazardous  
Materials Safety  
Southwest Region

8701 S. Gessner Road, Suite 900  
Houston, Texas 77074  
(713) 272-2920  
Fax: (713) 272-2821

## **EXIT BRIEFING**

COMPANY NAME \_\_\_\_\_ DATE \_\_\_\_\_

ADDRESS \_\_\_\_\_

COMPANY WEB ADDRESS \_\_\_\_\_ TAX ID# \_\_\_\_\_

NAME OF INDIVIDUALS RECEIVING THE BRIEFING:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

This has been a compliance inspection conducted in accordance with Title 49 U.S.C. Section 5121(c). This exit briefing addresses only the areas noted, and it is not a finding of general compliance in any other areas covered by the Hazardous Materials Regulations that were subject to the inspection.

During the course of the inspection the following probable violations of 49 CFR and/or quality control items were noted:

### **PROBABLE VIOLATIONS:**

Section: \_\_\_\_\_

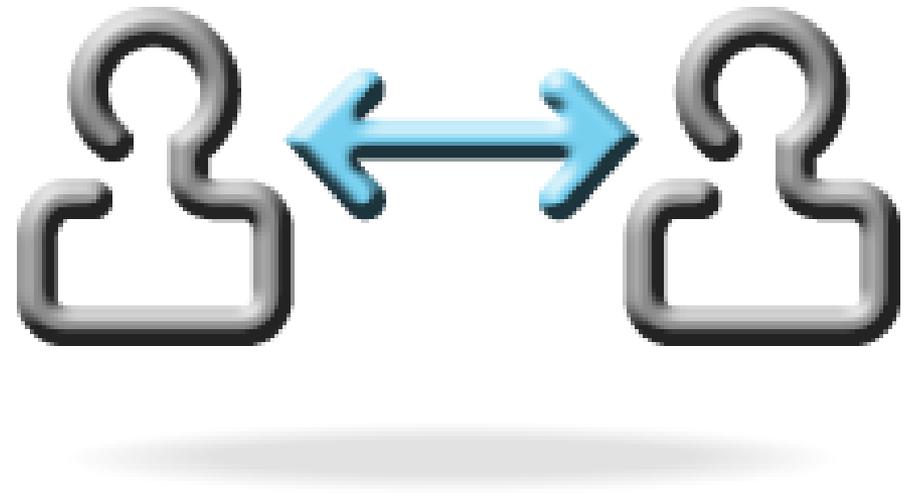
Explanation: \_\_\_\_\_

Page \_\_\_ of \_\_\_



# Investigator Feedback

- **Based on Experience**
  - Other Entity Comparisons (names omitted)
- **Geared Toward**
  - Safety
  - Overall Compliance
  - Systemic Improvements
  - Streamlining Operations



# Additional Documents

- PHMSA Organization Chart
- Hazmat Compliance Assistance Packet
- Hazmat DigiPack 7.2
- Penalty Guidelines
  - (Appendix A to Subpart D of Part 107)
- Title 49 Code of Federal Regulations (49 CFR)
- DOT Chart 15
- DOT Pamphlets
  - (Security Plan, MOTS)



# Glad That's Over – Now What???



# The Inspection Process – Next Steps

- **Investigator returns to regional office to prepare inspection report**
  - Reviews inspection with Region Director & Chief
  - Formalizes interviews, photos, documentation, etc.
  - Documents facts and evidence
- **Awaiting Corrective Action (within 30 Days)**
  - Attach to completed report and submit to Region Director
- **Region Director will review report for validity, completeness, and determine that corrective actions are sufficient to prevent future occurrences and ensure compliance**



# Inspection Results/Actions

- **No Further Action**
- **Warning Letter**
- **Ticket for Non-Compliance**
- **Civil Penalty Case**
  - General Council
- **Criminal Case**
  - General Council
  - Office of Inspector General (OIG)



# Penalty Potential (per violation)

- **Civil (\$75,000); Up to \$175,000 if death, illness or serious injury...**
  - Violation of a requirement as it relates to the...  
“transporting of a hazardous material, manufacture, fabrication, marking, maintenance, reconditioning, repair or testing of a hazardous materials packaging.”
- **Criminal (up to \$250,000 for an individual and \$500,000 for a company and/or 5 years imprisonment)**
  - Willfully violating the hazardous materials regulations
  - Unlawful altering, removal, defacing, destroying or otherwise tampering with any marking, labeling, placarding or packaging requirement



# Penalty Guidelines

## APPENDIX A TO SUBPART D OF PART 107—GUIDELINES FOR CIVIL PENALTIES

I. This appendix sets forth the guidelines PHMSA uses (as of October 2, 2013) in making initial baseline determinations for civil penalties. The first part of these guidelines is a list of baseline amounts or ranges for frequently-cited probable violations. Following the list of violations are general guidelines PHMSA uses in making penalty determinations in enforcement cases.

### II. LIST OF FREQUENTLY CITED VIOLATIONS

Violation description	Section or cite	Baseline assessment
<b>General Requirements</b>		
A. Registration Requirements: Failure to register as an offeror or carrier of hazardous material and pay registration fee:	107.608, 107.612.	
1. Small business or not-for-profit		\$1,200 + \$600 each additional year.
2. All others		\$3,500 + \$1,000 each additional year.
B. Training Requirements:		
1. Failure to provide initial training to hazmat employees (general awareness, function-specific, safety, and security awareness training):	172.702.	
a. More than 10 hazmat employees		\$1,500 for each area.
b. 10 hazmat employees or fewer		\$1,000 for each area.
2. Failure to provide recurrent training to hazmat employees (general awareness, function-specific, safety, and security awareness training).	172.702	\$1,000 for each area.
3. Failure to provide in-depth security training when a security plan is required but has not been developed.	172.702	Included in penalty for no security plan.
4. Failure to provide in-depth security training when a security plan is required and has been developed.	172.702	\$3,100.
5. Failure to create and maintain training records:	172.704.	
a. More than 10 hazmat employees		\$1,000.
b. 10 hazmat employees or fewer		\$600.
C. Security Plans:		
1. Failure to develop a security plan; failure to adhere to security plan:	172.800	
a. Section 172.504 Table 1 materials		\$9,300.
b. Packing Group I		\$7,500.
c. Packing Group II		\$5,600.
d. Packing Group III		\$3,700.
2. Incomplete security plan or incomplete adherence (one or more of four required elements missing)		One-quarter (25 percent) of above for each element.
3. Failure to update a security plan to reflect changing circumstances	172.802(b)	One-third (33 percent) of baseline for no plan.
4. Failure to put security plan in writing; failure to make all copies identical	172.800(b)	One-third (33 percent) of baseline for no plan.
D. Notification to a Foreign Shipper: Failure to provide a foreign offeror or forwarding agent written information of HMR requirements applicable to a shipment of hazardous materials within the United States, at the place of entry into the United States:		
1. Packing Group I and §172.504 Table 1 materials		\$9,300.*
2. Packing Group II		\$5,500.*
3. Packing Group III		\$1,800.*
*The baseline applied to the importer shall be equal to or less than the baseline applied to the foreign offeror or forwarding agent.		



# Inspection Statistics

- **2365 Nationwide inspections conducted in CY 2013**
  - Compliance 54.7%
  - Non-Compliance 45.3%

**Source:** OHMS Hazmat Intelligence Portal/HIP



# OHMS Enforcement Page

“PHMSA’s primary mission under the Federal Hazmat Transportation Law is to protect the nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce”



The screenshot shows the PHMSA website's "Inspections & Enforcement" page. The header includes the PHMSA logo, "U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration", and navigation links for "Careers", "Contact Us", "FAQs", and "Site Map". A search bar is present with a "Go" button and an "Advanced Search" link. The main navigation bar includes "For the Public", "Hazmat Safety Community", "Pipeline Safety Community", "Briefing Room", and "Doing Business with PHMSA". The page content is titled "Inspections & Enforcement" and features a central image of a PHMSA investigator in a blue uniform with a "U.S. DOT HAZMAT ENFORCEMENT" patch. Text on the page describes the agency's mission and lists various enforcement activities.

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

Careers | Contact Us | FAQs | Site Map

Go  
Advanced Search

For the Public | Hazmat Safety Community | Pipeline Safety Community | Briefing Room | Doing Business with PHMSA

Home » Inspections & Enforcement

**Inspections & Enforcement**

PHMSA's primary mission under the Federal laws governing the transportation of hazardous materials is to protect people and the environment from the risks inherent in the transportation of hazardous materials by pipelines and other modes.

It is the task of PHMSA's inspection and enforcement staff to determine compliance with the safety and training standards by:

- Inspecting entities that offer hazardous materials for transportation; and their manufacture, re-qualify, rebuild, repair, recondition, or retest packaging (other than cargo tanks and tank cars) used to transport hazardous materials.

Ensuring that pipeline operators are in full compliance with pipeline safety regulations and are meeting PHMSA's expectations for safe, reliable, and environmentally sound operation of their facilities.

PHMSA Hazardous Materials Enforcement assures compliance through:

- Independent and joint modal field inspections and partnerships of:
  - Shipper and carrier transportation facilities
  - Packaging manufacturing, requalification, repair and reconditioning facilities
  - Cargo vessel ports, rail freight yards, motor carrier and air cargo terminals
  - Chemical and explosive manufacturing plants
- Programmatic inspections of hazardous material transportation systems, procedures, and processes
- Civil and criminal enforcement investigations
- Accident and incident investigation and failure analysis
- Outreach and education elements with other agencies, industry and stakeholders
- Emergency response



<http://phmsa.dot.gov/inspect-enforce>



# File Complaint

- Promotes Safety
- High Priority
- Anonymous
- “What about that guy?!”
  - Opportunity to identify unknowns/“bad guys”



The screenshot shows the PHMSA (U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration) website header with the 1-203 logo. Below the header is the title "Complaints Concerning Violations of Hazardous Materials Regulations". The form instructions state: "Please fill in all of the following form fields (required fields are indicated by an \*). If you would like your contact information to be identified, simply replace the pre-filled fields (i.e. name, email address, and phone) and other fields with your contact information. If entering anonymously, please give as much detail as possible (e.g.- product(s), packaging(s), person(s), and location(s) involved), since the investigators will be unable to contact you to ensure the validity of the complaint. For text only browsers submit your question/complaint by standard email (please include your telephone number in your email)." Below the instructions is a large text area labeled "Please Enter Your Question/Comment:". Underneath is the "Contact Information:" section with the following fields: Name:\* (with a dropdown menu currently set to "Anonymous"), Organization:, Street Address:, City:, State: (dropdown menu), Country (International Only):, Zip Code:, E-mail Address:\* (pre-filled with "user@internet.com"), Telephone Number:\* (pre-filled with "(000) 000 000"), and Fax Number:.

<http://www.phmsa.dot.gov/phmsa-ext/feedback/hazmatComplaintsRegsViolationsForm.jsp>

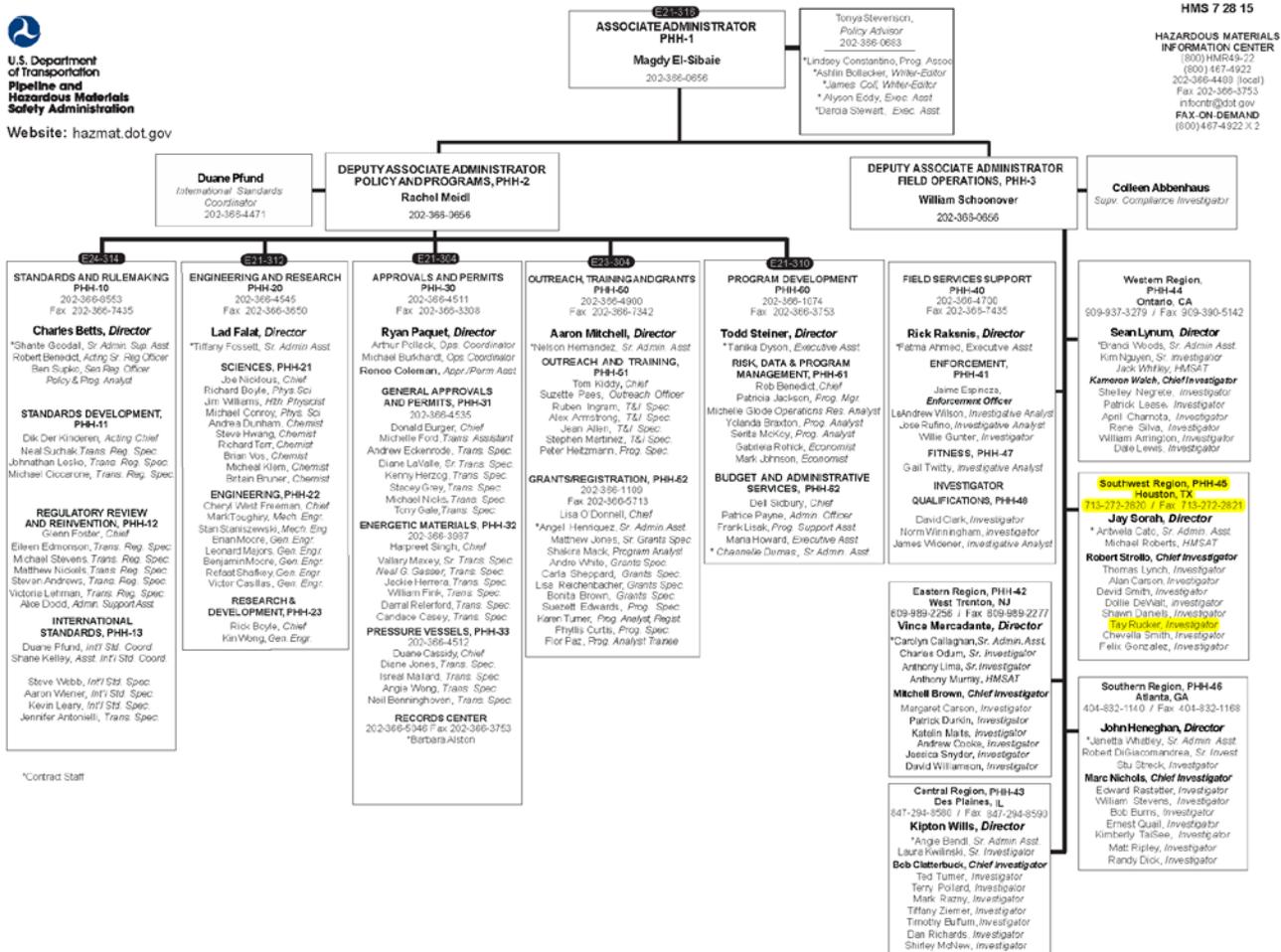


# PHMSA Organization Chart



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

Website: hazmat.dot.gov



# Where to Find More Information...

**PHMSA**  
Pipeline and Hazardous Materials  
Safety Administration

U.S. Department of Transportation

Twitter | YouTube | LinkedIn | Contact Us | FAQs | Site Map

About PHMSA | Pipeline Safety | Hazardous Materials Safety

Enter Search Term(s):  Search

### 2016 EMERGENCY RESPONSE GUIDEBOOK

A guidebook intended for use by first responders during the initial phase of a transportation incident involving dangerous goods/hazardous materials

**DOT announces release of new 2016 Emergency Response Guidebook**

### News & Updates

- U.S. Department of Transportation Announces [Flammable Liquid Unit Trains Response Curriculum](#)
- HM-253 Reverse Logistics Final Rule - March 2016 (PDF)
- [The Fixing America's Surface Transportation \(FAST\) Act](#)
- [Briefing Room](#)

### Find PHMSA Offices

[Key Officials](#)

Regional Offices

### PHMSA Resources

#### Regulations

Regulations & interpretations, proposed rules, approvals & permits, and bulletins for pipeline and hazmat safety.

#### Data & Reports

PHMSA tracks data on the frequency of failures, incidents and accidents.

<http://www.phmsa.dot.gov/hazmat>





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



# **NEW:** Hazardous Materials Transportation Training Modules

**Free**, interactive training modules available online:

<http://phmsa.dot.gov/hazmat>



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

To Protect People and the Environment From the Risks of  
Hazardous Materials Transportation



# Hazardous Material Info-Center

1-800-HMR-4922

(1-800-467-4922)

E-mail: [infocntr@dot.gov](mailto:infocntr@dot.gov)



- Obtain answers to HMR questions
- Request copies of Federal Register, special permits or training materials
- Fax on Demand

- 31 -



Questions?



# David Smith Investigator

**United States Department of Transportation  
Pipeline & Hazardous Materials Safety  
Administration**

**Office of Hazardous Materials Safety  
Field Operations – Southwest Region**

**8701 S. Gessner Rd  
Houston, TX 77047**

**David.smith@dot.gov  
(713) 272-2820**

