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U.S. Department of Transportation
West Building Ground Floor
Room W12-140
1200 New Jersey Ave., SE
Washington, DC 20590

RE: Comment on the October 2021 Joint Gas and Liquid Pipeline Advisory Committee Meeting

1. Introduction

Between October 20-21, 2021, the Pipeline and Hazardous Materials Safety Administration (PHMSA) held a virtual, joint meeting of the Liquid Pipeline Advisory Committee (LPAC) and Gas Pipeline Advisory Committee (GPAC) (collectively, "PAC").[1] The meeting consisted of general policy discussions, as well as consideration of PHMSA's notice of proposed rulemaking (NPRM), titled "Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments."[2] The NPRM proposes to incorporate by reference more than 20 new, updated, or reaffirmed consensus standards into the federal pipeline safety regulations and make non-substantive corrections to clarify certain regulatory provisions.[3] The American Petroleum Institute (API),[4] GPA Midstream (GPA),[5] and Association of Oil Pipe

[1] Pipeline Safety: Joint Meeting of the Gas and Liquid Pipeline Advisory Committees, 86 Fed. Reg. 54,786 (Oct. 4, 2021). (The Liquid Pipeline Advisory Committee (LPAC) was created by statute and meets periodically to review the technical feasibility, reasonableness, cost-effectiveness, and practicability of PHMSA-proposed rules).
[2] Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments, 86 Fed. Reg. 3,938 (Jan. 15, 2021) (hereinafter referred to as "IBR rule").
[3] *Id.*
[4] API represents all segments of America's natural gas and oil industry, which supports more than 11 million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our nearly 600 members produce, process and distribute the majority of the nation's energy, and participate in API Energy Excellence®, which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. API was formed in 1919 as a standards-setting organization and has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.
[5] GPA Midstream has served the U.S. energy industry since 1921 and has nearly 70 corporate members that directly employ more than 75,000 employees that are engaged in a wide variety of services that move vital energy products such as natural gas, natural gas liquids (NGLs), refined products and crude oil from production areas to markets across the United States, commonly referred to as "midstream activities." The work of our members indirectly creates or

Lines (AOPL)[6] (collectively, "the Associations") submit this letter concerning the LPAC meeting and the NPRM.

2. PHMSA should not read Section 114 of the PIPES Act to provide new substantive mandates on liquids pipeline operators.

In December 2020, Congress passed the Protecting our Infrastructure of Pipelines and Enhancing Safety Act (PIPES Act) of 2020.[7] Section 114 of the PIPES Act provides that by December 27, 2021, "each pipeline operator shall update the inspection and maintenance plan prepared by the operator under section 60108(a) of title 49, United States Code, to address the elements described in the amendments to that section made by [Section 114(a)]."[8] Those elements include the extent to which the plan addresses eliminating hazardous leaks, minimizing the release of natural gas, and replacing or remediating pipelines that are known to leak.[9] On June 7, 2021, PHMSA released an advisory bulletin to reiterate the mandate from Section 114 of the PIPES Act of 2020.[10]

During the LPAC meeting, PHMSA highlighted two distinct aspects of inspections that will be conducted under Section 114 for hazardous liquids pipelines: "natural gas emissions" and "leak-prone pipe."[11] According to PHMSA, the "natural gas emissions" aspect "[is] applicable to hazardous liquids operators if they use natural gas, fuel gas or instruments or actuator control."[12] PHMSA stated that, under this aspect, its Section 114 inspections would focus solely on "how natural gas is being used and managed" by liquids operators.[13]

Concerning the "leak-prone pipe" aspect, PHMSA clarified that Section 114 applies to liquid operators regardless of whether there is a natural gas affiliation.[14] PHMSA also stated that its Section 114 inspections under this aspect will include questions about pipelines that are prone to leak. While the Associations appreciate the clarity PHMSA provided, they would like to reinforce the fact that liquids operators already address this issue through their integrity management programs.[15] Furthermore, commonly applied statutory construction requires reading this provision in the context of the broader statute. The previous section of the PIPES

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impacts an additional 450,000 jobs across the U.S. economy. GPA Midstream members recover more than 90% of the NGLs such as ethane, propane, butane, and natural gasoline produced in the United States from more than 400 natural gas processing facilities. In 2017-2019 period, GPA Midstream members spent over $105 billion in capital improvements to serve the country's needs for reliable and affordable energy.

[6] AOPL promotes responsible policies, safety excellence, and public support for liquids pipelines. AOPL represents pipelines transporting 97 percent of all hazardous liquids barrel miles reported to the Federal Energy Regulatory Commission. AOPL's diverse membership includes large and small pipelines carrying crude oil, refined petroleum products, NGLs, and other liquids.

[7] Pub. L. 116-260, 134 Stat. 1182, 2210.

[8] *Id.* § 114(b), 134 Stat. at 2231.

[9] *Id.* § 114(a), 134 Stat. at 2230.

[10] Pipeline Safety: Statutory Mandate to Update Inspection and Maintenance Plans to Address Eliminating Hazardous Leaks and Minimizing Releases of Natural Gas from Pipeline Facilities, 86 Fed. Reg. 31,002 (June 10, 2021).

[11] LPAC Transcript at 276:18 – 277:14.

[12] *Id.* at 276:19-22.

[13] *Id.* at 277:6-7.

[14] *Id.* at 277:8-10.

[15] *See* 49 C.F.R. § 195.452.

Act (Section 113) is limited to natural gas pipeline leak detection and repair.[16] Section 114 builds upon that section by requiring operator inspection and maintenance modifications.[17] The text of Section 114 further bolsters this natural gas linkage when listing examples of pipelines known to leak "(including cast iron, unprotected steel, wrought iron, and historic plastics with known issues)", materials historically used for natural gas pipelines.[18] PHMSA's assertion that Congress intended the agency to create a new obligation toward liquid pipelines is not supported by the statute.

3. PHMSA should continue to advance its R&D program through collaboration with industry and implementation of Section 104 of the PIPES Act.

During the LPAC meeting, PHMSA dedicated a portion of its policy agenda to research and development (R&D).[19] The Associations support continuing these discussions during PAC meetings and applaud PHMSA's efforts to provide transparency and coordination in its R&D activities. These efforts enhance PHMSA's confidence in technology and support PHMSA's regulatory goals, such as modernizing and filling gaps in federal pipeline safety regulations based on the latest technologies and analytic methods.

The LPAC briefing by PHMSA on current PHMSA R&D activities was informative. However, PHMSA's interactions with the industry on R&D priorities has been limited. Further coordination would enhance alignment of R&D funding on pipeline safety priorities and support the development of advanced practices and technologies that meet PHMSA's regulatory goals.

One way PHMSA gathers data from affected stakeholder groups is through its R&D forums, a point that PHMSA emphasized during the LPAC meeting. Unfortunately, PHMSA only holds these forums once every two years.[20] Additionally, PHMSA engages in little communication on its priorities in the years between forums and can allow a significant amount of time to pass between the forum and public announcement of its priorities. PHMSA plans to hold another forum at the end of November, but it will focus primarily on hydrogen and emerging fuels with only limited time spent on liquids pipeline safety issues.[21]

The pipeline industry is actively working with research organizations, such as PRCI, to address important liquids pipeline safety topics and encourages PHMSA's participation and collaboration. Industry encourages PHMSA to hold more regular discussions with industry on liquids pipeline safety R&D priorities. The LPAC has the potential to provide an excellent forum for more regular, public, multi-stakeholder discussion of R&D priorities. The Associations recommend PHMSA create an LPAC subcommittee focused on R&D to serve as a vehicle for

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[16] Pub. L. 116-260, 134 Stat. 1182, 2210.
[17] *Id.*
[18] *Id.*
[19] PHMSA, Agenda, Gas and Liquid Pipeline Advisory Committees (Oct. 20, 2021) https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1165.
[20] See PHMSA Meeting Registration and Document Commenting, PHMSA Public Meetings and Documents: PHMSA Meeting Registration and Document Commenting (dot.gov) (last visited Nov. 16, 2021) (PHMSA held an R&D Forum in 2020, 2018, and 2016).
[21] Pipeline Safety: Pipeline Transportation; Hydrogen and Emerging Fuels Research and Development (R&D) Public Meeting and Forum, 86 Fed. Reg. 58,389 (Oct. 21, 2021).

continuing strategic discussions of R&D priorities. Absent a coordinated approach, PHMSA's regulations will continue to lag behind the advancements that are being made to industry technologies, which are improving pipeline safety and reliability.

Another opportunity for PHMSA to enhance its confidence in technology is through Section 104 of the PIPES Act. Section 104 gives PHMSA discretion to "establish and carry out limited safety-enhancing testing programs to evaluate innovative technologies and operational practices."[22] Despite the PIPES Act being signed into law nearly a year ago, PHMSA has yet to provide guidance to operators on how, where and in what form to apply for participation in this program. During the LPAC meeting, PHMSA stated that "we just received approval to start drafting a Federal Register Notice that will provide guidance on the provisions where applicants can submit an application for a pipeline testing enhancement project [under Section 104]."[23] The Associations welcome this news and encourage PHMSA to continue its efforts to establish such a program, which will allow the industry to demonstrate the value of new technologies that advance pipeline safety. A program under Section 104 will advance PHMSA's pipeline safety and climate initiatives, allowing the industry to utilize the newest technologies and demonstrate how pipeline anomalies can be detected and remediated before a leak occurs.

4. PHMSA should continue its collaboration with TSA to ensure alignment between agencies.

A portion of the PAC policy agenda was dedicated to pipeline cybersecurity issues.[24] Both PHMSA and the Transportation Security Administration (TSA) provided perspectives on ways to coordinate and improve pipeline cybersecurity, such as information sharing and collaboration between the government and the industry.[25] The presentation also included an overview of the PHMSA-TSA MOU, TSA Security Directives (SDs), PHMSA cyber hygiene, and lessons learned.

During PHMSA's presentation, it stated that "one of the things that was key for us was when the operator was conducting manual operations."[26] PHMSA went on to state that "[s]omething that we're very familiar with is that a lot of operators have not done this continually in practice, so we want to make sure, you know, one of our observations is that we want to make sure that operators are prepared for this, have staff trained to do this and actually exercise it as well."[27] The Associations point out the fact that this is not required by regulation and many operators address these unique conditions through implementation of their emergency response plans under Part 194.[28]

The Associations would also like to stress the importance of coordination between PHMSA and TSA. Both agencies should be aware of the potential impact of TSA SDs on the safe operation

[22] Pub. L. 116-260, § 104(a), 134 Stat. at 2216.
[23] LPAC Transcript at 121:1-6.
[24] PHMSA, Agenda, Gas and Liquid Pipeline Advisory Committees (Oct. 20, 2021) https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1165.
[25] PHMSA, Pipeline Cyber Security Issues (Oct. 20, 2021) https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1178.
[26] LPAC Transcript at 146:1-3.
[27] *Id.* at 146:4-10.
[28] *See* 49 C.F.R. Part 194.

of pipelines and of an operator having to comply with PHMSA requirements, TSA pipeline security requirements, and local ordinances at the same time. For instance, TSA SD#2 requires cybersecurity mitigation actions on pipeline operation technology, which operators believe could threaten the reliable and safe operation of pipelines.[29] As PHMSA knows, the operational control of pipelines is vital to ensuring they are operating safely and to mitigate the impact of any incident. Pipeline safety would benefit from the active participation of PHMSA in the development and implementation of TSA requirements, as well as the consideration and approval of alternative implementation of those TSA requirements. The Associations believe that pipeline cybersecurity conversations during PAC meetings foster greater collaboration between the two agencies and encourage PHMSA to continue this practice.

5. PHMSA should clarify that API RP 651 does not apply to El Segundo double-bottom tanks or tanks on concrete pads.

The NPRM proposes to incorporate by reference the fourth edition of API RP 651, *Cathodic Protection of Aboveground Storage Tanks*. The third edition of API RP 651 is currently incorporated by reference in 49 C.F.R. § 195.3 and approved for §§ 195.565 and 195.573(d).[30] The fourth edition consists primarily of minor technical improvements and editorial revisions to the third edition. PHMSA received eight comments responding to the NPRM, two of which encouraged PHMSA to clarify that API RP 651 does not require all breakout tanks to have cathodic protection.[31] In its presentation to the LPAC, PHMSA stated that the comments and recommendations were outside the scope of the NPRM and did not consider any changes in the application of the standard.[32] PHMSA also noted that it is currently considering an interpretation request regarding the scope of API RP 651.[33] PHMSA did, however, include the following language in the LPAC voting slide: "LPAC recommends that PHMSA clarify in the preamble of the final rule the application of API RP 651 as stated in the public comments."[34] While the Associations generally support this language, they would like to make clear the applicability of API RP 651, particularly as it applies to tanks on concrete pads and El Segundo double-bottom tanks.

Under 49 C.F.R. § 195.563, each buried or submerged pipeline must have cathodic protection.[35] A pipeline means all parts of a pipeline facility through which hazardous liquid

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[29] Ratification of Security Directive, 86 Fed. Reg. 52,953 (Sept. 24, 2021).
[30] 49 C.F.R. § 195.3(b)(5).
[31] *See* Comments from API, INGAA, GPA Midstream, AGA, APGA, Docket No. PHMSA-2016-0002 (Mar. 15, 2021), https://www.regulations.gov/comment/PHMSA-2016-0002-0005; *see also* Comment from American Fuel & Petrochemical Manufacturers, Docket No. PHMSA-2016-0002 (Mar. 16, 2021), https://www.regulations.gov/comment/PHMSA-2016-0002-0006; *see also* Comment from American Petroleum Institute, Docket No. PHMSA-2016-0002 (presentation by API to PHMSA staff), https://www.regulations.gov/comment/PHMSA-2016-0002-0009.
[32] *See* Gas Pipeline Advisory Committee (GPAC) and Liquid Pipeline Advisory Committee (LPAC) Meeting, *Standards Update Full PAC Presentation* at 58 (Oct. 8, 2021), https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1162.
[33] *Id.*
[34] *See* Gas Pipeline Advisory Committee (GPAC) and Liquid Pipeline Advisory Committee (LPAC) Meeting, *Standards Rule Vote Slides PAC* (Oct. 22, 2021), https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1166.
[35] 49 C.F.R. § 195.563.

moves, including breakout tanks.[36] The term buried, as used in § 195.553, means "covered or in contact with soil."[37] Thus, § 195.553 can be read as requiring breakout tanks in contact with soil to have cathodic protection. Per 49 C.F.R. § 195.565, the bottom of an aboveground breakout tank must have cathodic protection, installed in accordance with API RP 651. An operator must also "inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API RP 651."[38]

The purpose of API RP 651 is to "present procedures and practices for achieving effective corrosion control on aboveground storage tank bottoms through the use of cathodic protection."[39] There are, however, limitations to external cathodic protection systems in certain circumstances. According to API RP 651, "cathodic protection is an effective means of corrosion control only if it is possible to pass electrical current between the anode and cathode (tank bottom)."[40] API RP 651 further provides that "many factors can either reduce or eliminate the flow of electrical current and, therefore, may limit the effectiveness of cathodic protection in some cases or preclude its use in others," including:

- Tank pads such as concrete, asphalt, or oiled sand,
- An impervious external liner between the tank bottom and anodes,
- High resistance soil or rock aggregate pads; and
- Old storage tank bottoms left in place when a new bottom is installed.[41]

State and Federal pipeline safety inspectors are inconsistent in their application of 49 C.F.R. § 195.563, regarding when cathodic protection on breakout tanks is required. The language in API RP 651 inherently precludes the use of cathodic protection on certain breakout tanks, such as tanks on concrete pads and El Segundo double-bottom tanks. For instance, Section 5.3.3.2 of API RP 651, fourth edition, states that a concrete tank pad may be effective in eliminating the intrusion of groundwater, soil-side corrosion, and the need for cathodic protection.[42]

The concrete pad upon which a tank sits can be classified as a pipeline facility. A pipeline facility "means new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of hazardous liquids."[43] The tank itself, in contrast, is classified as the pipeline under Part 195.[44] Thus, because the tank pad (pipeline facility) is in contact with soil and not the tank (pipeline), the tank is exempt from cathodic protection requirements prescribed in § 195.563. A similar conclusion can be reached for El Segundo double-bottom tanks, where the active tank floor is in contact with a concrete interstitial fill, and the secondary, inactive bottom is in contact with the soil.

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[36] *Id.* § 195.2.
[37] *Id.* § 195.553.
[38] *Id.* § 195.573(d).
[39] API Recommended Practice 651, *Cathodic Protection of Aboveground Storage Tanks* § 1.1, (4th ed. Sept. 2014).
[40] *Id.* at § 5.1.4.
[41] *Id.*
[42] *Id.* at § 5.3.3.2.
[43] 49 C.F.R. § 195.2.
[44] *See* 49 C.F.R. 195.2 (pipeline means all parts of a pipeline facility through which hazardous liquid moves, including breakout tanks).

This conclusion is supported by a 2013 Notice of Probable Violation (NOPV) issued to Plains Pipeline, L.P.[45] In that case, Plains did not maintain cathodic protection on 16 breakout tanks and instead used a vapor-phase corrosion inhibitor to protect the tanks. The tanks were single-bottom and constructed with a dielectric high density polyethylene liner below the tank to protect against potential soil and groundwater contamination. The liner, however, was located approximately one foot below each tank. The tanks were thus in contact with soil making them "pipelines" and subject to the requirements of § 195.563. In its final order, PHMSA substantiated its argument stating that "the plain language of §§ 195.563 and 195.565 requires operators to have cathodic protection for breakout tanks in contact with the soil to protect against corrosion."[46]

From a safety perspective, double-bottom tanks and concrete pad designs offer many advantages over single-bottom tanks. Regarding double-bottom tanks, the interstitial space between the active floor and the inactive shell provides for leak containment, preventing hazardous liquids from permeating to the soil beneath the tank. Further, many double-bottom tanks are equipped with leak detection ports, providing early confirmations of leaks from the active floor – as opposed to single-bottom tank designs where leaks can be difficult to detect. Separately, tanks built upon a concrete pad and double-bottom tanks with a concrete interstitial fill provide a sealed, controlled environment which prevents moisture from reaching the tank floor which may accelerate corrosion. Concrete pads also provide structural integrity for tanks.

Double-bottom tanks and tanks on concrete pads have strong performance and safety records and PHMSA should encourage their use. As unanimously agreed by the LPAC at its October 2021 meeting, PHMSA should clarify in the preamble of the final IBR rule the applicability of API RP 651. The Associations urge PHMSA to consider language clarifying that cathodic protection is not required for certain breakout tanks, such as those on concrete pads and El Segundo double-bottom tanks.

During PHMSA's presentation to the LPAC, PHMSA mentioned that issues concerning the applicability of API RP 651 are outside the scope of the IBR Rule. PHMSA also mentioned that it is currently considering an interpretation request from Chemoil Energy regarding "the out of scope issues that are associated with API RP 651."[47] PHMSA's response to Chemoil's interpretation request could greatly affect the industry. The Associations and their members would like to participate, to the extent possible, as PHMSA drafts its response. The Associations also request that its participation be included in the record for the interpretation.

6. In lieu of cathodic protection, PHMSA should allow operators to use alternative, risk-based inspection methods for El Segundo double-bottom tanks and tanks on concrete pads.

PHMSA should allow operators to ensure the integrity of El Segundo double-bottom tanks and tanks on concrete pads using methods other than cathodic protection. These methods may include risk-based assessments, as prescribed in API RP 653: *Tank Inspection, Repair, Alteration,*

[45] *See Plains Pipeline, L.P.*, CPF 4-2013-5007, NOPV (Apr. 5, 2013).
[46] *Plains Pipeline, L.P.*, CPF 4-2013-5007, Final Order at 12 (May 22, 2015).
[47] LPAC Transcript at 113:7-8.

and Reconstruction.[48] Currently, the third edition of API RP 653 is incorporated by reference in 49 C.F.R. § 195.[49] PHMSA should consider incorporating by reference the most recent, fifth edition of the RP. As it relates to a substitute for cathodic protection, API RP 653 specifies alternate methods and intervals to evaluate tank bottoms to ensure tank integrity. The RP also highlights some historical causes of tank bottom leakage, many of which are corrosion-related defects. This helps operators recognize and characterize specific integrity threats when assessing their tank bottoms. API RP 653 also allows for the in-service inspection of tanks, which significantly decreases emissions compared to taking a tank out-of-service for an inspection.

7. PHMSA should update its regulatory references to technical standards at least biennially.

There are a number of standards incorporated by reference into the federal pipeline safety regulations that are outdated, such as API RP 653. Technical standards typically reflect industry best practices, the newest technologies, and incorporate recent R&D projects. By failing to frequently update regulatory references to these standards, PHMSA's regulations lag behind industry safety-related technologies. In an industry comment letter on the IBR Rule, it highlighted PHMSA's inconsistent updates and recommended the Agency update its references to technical standards at least biennially.[50] During the LPAC meeting, PHMSA stated that "we would love to" issue a standards update at least every two years, and "we'll definitely try to do it as efficiently as we possibly can."[51] While the Associations applaud PHMSA for recognizing the importance of these updates, they would like to reinforce the industry's previous comment and request that PHMSA update its regulatory references to technical standards at least biennially.

8. PHMSA should extend the deadline to comply with API Standard 2350, Fifth Edition.

The NPRM proposes to incorporate by reference API Standard (Std.) 2350, *Overfill Protection for Storage Tanks in Petroleum Facilities*, fifth edition.[52] The third edition of Std. 2350 is currently incorporated by reference for § 195.428(c), which prescribes regulations for overpressure safety devices and overfill protection systems.[53] The Standard is designed for storage tanks associated with facilities that receive flammable and combustible petroleum liquids and addresses minimum overfill and damage-prevention practices for aboveground storage tanks in petroleum facilities.

The fifth edition of the Standard imposes new requirements such as a written management system for overfill-prevention processes, overfill risk-assessment processes, expanded requirements for testing overfill-prevention systems and related procedures, and the use of safety-

[48] API Recommended Practice 653, *Tank Inspection, Repair, Alteration, and Reconstruction* (5th ed. Nov. 2014).
[49] 49 C.F.R. § 195.3(b)(19).
[50] *See* Comments from API, INGAA, GPA Midstream, AGA, APGA at 3, Docket No. PHMSA-2016-0002 (Mar. 15, 2021) ("[p]revious updates to incorporate consensus standards by reference were published on August 6, 2015, January 5, 2015, August 11, 2010, February 1, 2007, June 9, 2006, June 14, 2004, February 17, 1998, and May 24, 1996") (footnotes omitted).
[51] LPAC Transcript at 34:5-15.
[52] Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments, 86 Fed. Reg. 3,938 (Jan. 15, 2021).
[53] 49 C.F.R. § 195.428.

instrumented systems on new automatic overfill prevention systems.[54] The scope of the fifth edition of Std. 2350 was also revised to include dedicated pipeline relief tanks on breakout tanks.[55] During the LPAC meeting, PHMSA clarified that the requirements in 195.428(c) are "specific to installation, not to the operations or maintenance of relevant aboveground breakout tanks."[56] PHMSA also stated that Std. 2350 only applies to aboveground tanks with capacities of 600 gallons or more.[57]

While the Associations support PHMSA's proposal, PHMSA should extend the compliance deadline. In previous PHMSA updates to its regulatory references to technical standards, the effective date of the rule was approximately 60-days after its publication.[58] Because of the extent to which the fifth edition differs from the third, operators will need more time to comply. The Associations thus recommend PHMSA extend the deadline for compliance as it relates to API Std. 2350.

9. API is willing to help PHMSA work with ASME to make their standards reasonably available.

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 prohibits the Secretary from issuing a regulation that incorporates by reference any documents unless the documents are made available to the public free of charge.[59] The Secretary must also discuss in the preamble of such rule "the ways that the materials it proposes to incorporate by reference are reasonably available to interested parties or how it worked to make those materials reasonably available to interested parties."[60]

During the LPAC meeting, there was much discussion around the availability of ASME's standards that are incorporated into federal pipeline safety regulations. One LPAC member explained that ASME's standards are the only ones that are not viewable online.[61] The member further explained that to obtain an ASME standard, an interested party must email PHMSA with a request, provide a phone number and physical address, and then PHMSA has to send a copy of the standard by mail, with the expectation that it will be returned within 30-days. The LPAC unanimously agreed that ASME should improve the accessibility of its standards.

As a standard-setting organization with many standards incorporated by reference in federal regulations, API has much experience making its standards publicly available. API maintains an "IBR Reading Room" where interested parties can access and view standards that are

[54] API Standard 2350, *Overfill Protection for Storage Tanks in Petroleum Facilities* (5th ed. Sept. 2020).
[55] *Id.*
[56] LPAC Transcript at 91:18-21.
[57] *Id.* at 91:13-18.
[58] *See* Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments, 80 Fed. Reg. 168 (Jan. 5, 2015) (effective date Mar. 6, 2015); *see also* Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Edits, 75 Fed Reg. 48,593 (Aug. 11, 2010) (effective date Oct. 1, 2010).
[59] Pub. L. 112-90, § 24, 125 Stat. 1904, 1919.
[60] 1 C.F.R. § 51.5(a)(1).
[61] LPAC Transcript at 41:15 – 43:8.

incorporated by reference.[62] If useful, API would like to offer its assistance to PHMSA as it works with ASME to make their standards more accessible.

10. Conclusion

The Associations appreciate the opportunity to provide comments on the IBR Rule and LPAC meeting and look forward to working with PHMSA as it continues to advance pipeline safety.

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[62] *See* IBR Reading Room, American Petroleum Institute, https://publications.api.org/ (last viewed Nov. 10, 2021).