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U.S. DOT Docket Management Facility
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U.S. Department of Transportation
1200 New Jersey Ave. SE, Room W12-140
Washington, DC 20590-0001

RE: Comments of the American Petroleum Institute and the Association of Oil Pipe Lines on its Notification of Regulatory Review, Docket No. DOT-OST-2017-0069

The American Petroleum Institute (“API”)¹ and the Association of Oil Pipe Lines (“AOPL”)² (collectively, “API and AOPL” or “the Associations”) hereby submit comments in response to the Notification of Regulatory Review issued by the Department of Transportation (DOT) on October 2, 2017, in the above-referenced proceeding. API and AOPL members are dedicated to continuous improvement in pipeline safety, and therefore, appreciate the opportunity to submit comments on the regulatory review initiative to address pipeline safety in several areas.

The pipeline industry is committed to protecting the health and safety of its workers, neighbors, customers, and the communities through which its pipelines carry crude oil, refined petroleum, and other products. Pipeline operators work diligently to construct, operate and maintain their facilities safely, reliably, and with a goal of zero incidents.

API and AOPL share DOT’s, and specifically the U.S. Pipeline and Hazardous Materials Safety Administration’s (PHMSA), goal of increasing pipeline safety in an effective and efficient manner. API and AOPL recognize the challenges of providing a regulatory program for an energy pipeline system stretching over 2.7 million miles from gathering lines within production fields to transmission pipelines over long distances to distribution of products direct to homes and businesses. PHMSA must oversee pipelines as narrow as a few inches to as broad as 48

¹ API represents over 625 oil and natural gas companies, leaders of a technology-driven industry that supplies most of America’s energy, supports more than 9.8 million jobs and 8 percent of the U.S. economy, and, since 2000, has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternative fuels.

² AOPL is a national trade association that represents owners and operators of oil pipelines across North America and educates the public about the vital role oil pipelines serve in the daily lives of Americans. AOPL members bring crude oil to the nation’s refineries and important petroleum products to our communities, including all grades of gasoline, diesel, jet fuel, home heating oil, kerosene, propane, and biofuels.

inches in diameter, operating in urban or rural areas, crossing mountains, rivers, swamps, farmland and urban areas, constructed of steel, along with a myriad of protective coatings, anti-corrosion systems, monitoring technologies, welding techniques and construction materials to ensure pipeline integrity and safety.

A prescriptive, one-size-fits-all pipeline safety program applied to the infinite combinations of pipeline types, operating conditions, construction materials and locations would invariably fail to address every safety circumstance and lead to terrific amounts of wasted resources. The current performance-based system of regulation with performance standards and a focus on risk, engineering assessment, proactive inspection and preventative maintenance is best suited to keep our pipeline system safe, allow for the use of innovative technologies and serve the energy needs of the American public.

However, regulatory requirements built up over time must be updated to keep up with advances in modern technology, industry standards or best operating practices. Requirements intended to address a past incident or policy concern may in some instances have become obsolete, unnecessary and potentially counterproductive to the goal of safe and efficient pipeline operation. Proposals to add new requirements to pipeline safety regulation must not lose sight of the fundamental need for pipeline regulation to prioritize risk and performance, and utilize sound engineering assessments based on data, technology and the specific needs of the pipe itself.

Therefore, API and AOPL appreciate DOT's commitment to review its existing regulations and other agency actions to evaluate their continued necessity, determine whether they are crafted effectively to solve current problems, and evaluate whether they unnecessarily burden the development or use of domestically produced energy resources. API and AOPL accept DOT's invitation to provide input on existing rules and other agency actions that are good candidates for repeal, replacement, suspension, or modification. The following discussion and attached materials describe the PHMSA policy and identify unnecessary burdens and applicable alternatives for consideration by DOT under this initiative. Items of highest priority are described in more detail below with a complete listing of all concerns in the attached table.

I. Proposed Rulemaking, "Pipeline Safety: Safety of Hazardous Liquid Pipelines"

PHMSA has proposed many changes to its pipeline safety regulations through a comprehensive rule first proposed October 13, 2015. The liquids pipeline industry shares the same goal as PHMSA to prevent accidents that impact people and the environment and is supportive of PHMSA adjusting its pipeline safety regulations that achieve this objective. However, PHMSA's initial proposed rule raised major concerns surrounding overly broad or unnecessarily conservative requirements that did not prioritize risk, resulting in a diversion of both operator and regulator resources away from activities that are designed to mitigate the highest risk.

Specific areas of concern in PHMSA's proposed hazardous liquids pipeline rulemaking included: gravity lines, gathering lines, post-extreme weather event inspections, ILI of non-high consequence areas (non-HCAs), leak detection systems in non-HCAs, repair criteria for immediate conditions, piggable HCA lines and other miscellaneous issues. To address these concerns, API and AOPL filed comments on January 8, 2016, and asked PHMSA to change the proposed rule to ensure the final rule did not: 1) pose additional, unintended safety risks for pipeline personnel, 2) fail to incorporate the proven application of good engineering judgment and the consideration of facts and science in operating pipelines, 3) ignore valuable advancements in the science and technology of pipeline integrity management, 4) improperly analyze the benefits and costs of the proposed rules, nor 5) impose new requirements without careful understanding of their integration with existing pipeline regulations and the operational feasibility of the proposed rules.

In response to the Associations' input, as well as an independent cost assessment on the proposal, a pre-publication version of the rule posted online by PHMSA in January 2017 added language to protect personnel safety in the post-extreme weather event inspection requirement, limited ILI smart pig inspections in non-high consequence areas to onshore and piggable transmission lines, extended some implementation and compliance deadlines, and dropped new repair criteria for non-HCAs and overly broad repair criteria for "any" indication of significant stress corrosion cracking. While these modifications, if incorporated into the final version of the rule, are welcome changes, they continue to fall short of PHMSA and the Associations' shared objective of preventing accidents that impact people and the environment. API and AOPL believe the following additional adjustments are necessary before the rule is finalized to make it a performance-based, workable, and cost-effective pipeline safety regulation:

Repair Criteria is Unworkable - PHMSA continues to propose unworkable changes to the criteria used to identify and assess the need to make pipeline repairs. PHMSA proposes regulatory requirements based on specific pipe anomaly conditions, such as stress corrosion cracking (SCC) and selective seam weld corrosion (SSWC), even though this construction of the rule fails to apply the anomaly terminology of the relevant pipeline ILI inspection technology.

Integrity Assessment Applies Over-Conservatism - The methods PHMSA proposes for assessing corrosion are excessively and unnecessarily conservative. The results are wasteful preventive maintenance actions on pipe sections that do not pose a threat to public safety or the environment. The failure to tailor response to risk established in the operator's integrity assessment adds further risk to the pipeline system because doing so will underprioritize other pipeline conditions.

Inappropriate Pipe Seam Assessment - PHMSA proposes requiring assessments for all forms of pipe with a seam weld. An impractical impact of this mandate would be that operators will have to run an ILI tool on a pipeline with no history of or presence of identified risk factors for a seam defect, and denies the operator the autonomy to select a more appropriate assessment tool given the potential threats specific to the pipeline.

Ensuring Engineering Critical Assessments are Fit-for-Purpose - PHMSA's proposed language on engineering critical assessments (ECAs) is new, was not provided in the NPRM for public comment, and contains very specific requirements for how operators are to analyze anomalies, which make it unworkable.

Expanded Application of Engineering Critical Assessments (ECAs) - Despite recognizing the benefits of ECAs and proposing their use in many places in the pre-publication rule of January 2017, PHMSA seems to disallow ECA for dents with interacting threats, such as corrosion or cracking. If not allowed and all dents associated with metal loss, cracks, or stress concentrators are treated the same without regard to risk, operators will incur unnecessary costs and divert limited resources with no added pipeline safety benefit. Additionally, ECAs are not permitted for assessing corrosion of or along a longitudinal seam, which divert resources to types of corrosion that do not have significant effects on pipe integrity.

Lack of Piggability Exception for Short, Low-Risk Lines - The absence of an in-line inspection exception for piping of short distances that is low-risk between nearby facilities or within them forces operators to divert inspection resources to low risk equipment. This also ignores the proven merit of established means of evaluating and maintaining the integrity of these lines.

Deep Water Inspection Clarification - At least one PHMSA Region may be misapplying a 2016 reauthorization law provision on pipelines in more than 150 feet deep of water. The intent of Congress is to address pipelines in a water depth greater than 150'. Congress specifically had in mind a pipeline resting on the bottom of a waterbody greater than 150' deep. However, one PHMSA region is adding the soil depth below the water body bottom to the water depth to reach the threshold. For example, a pipe installed with horizontal directional drilling 45' deep in the soil below the bottom of a water body only 110" in depth of water for a total soil-water depth of 155' would fall into this type of PHMSA region misapplication of the provision. However, this does not represent the same type of safety threat as a pipe resting on the bottom of a water body exposed to greater risk probability and consequences and for that reason was not the intent of Congress. PHMSA should ensure all regions apply this provision consistent with Congressional intent of water body depth.

API and AOPL recommend the adjustments detailed in the attached table to make the finalized hazardous liquid rule a workable, cost-effective pipeline safety regulation.

II. Incorporation by Reference of Industry Consensus Standards Including API Std. 653 on Tanks

Since 1924, API has been a cornerstone in establishing and maintaining standards for the worldwide oil and natural gas industry. API's work helps the industry invent and manufacture superior products consistently, provide critical services, ensure fairness in the marketplace for businesses and consumers alike, and promotes the acceptance of safer

products and practices globally. Industry consensus standards enhance the safety of industry operations, assure quality, minimize unnecessary costs, reduce waste, and provide needed guidance to pipeline operators. For these reasons, PHMSA has incorporated over two dozen industry consensus standards into its regulations on topics ranging from specifications for manufacturing transmission pipe to the construction, repair, alteration and reconstruction of storage tanks.

However, while PHMSA and the public are benefitting from incorporation of industry consensus standards, PHMSA has failed to keep up with periodic revisions to these consensus standards used to harness the latest technologies or safety practices. As a result, delays have prevented implementation of the best practices in updated standards.

As an example of a delayed update to include a revised industry standard, PHMSA has yet to incorporate the latest industry consensus standards for the repair, alteration and reconstruction of storage tanks (API Standard 653). PHMSA's outdated requirements remain referenced to a previous version of API Standard (Std.) 653, which do not allow for fitness-for-service assessments or risk-based inspections. This leads to operators wasting resources performing unnecessary inspection and maintenance on tanks before they demonstrate that the inspection thresholds of the standard have been met. An allowance for fitness-for-service assessments would permit operators to collect data and implement safeguards to maintain the tank integrity, but without requirements to inspect the tank on an impractical interval. The fitness-for-service criteria included in the latest version of API Std. 653 is very stringent, represents best industry practices and will allow operators to ensure tank integrity and reliability, but without spending millions of dollars on unnecessary tank inspections with limited safety and environmental benefits. In addition to concerns with PHMSA's failure to update its rules to API Std. 653, API and AOPL recommend in the detailed attachment many other opportunities for PHMSA to adopt more recent versions of industry consensus standards.

III. National Response Center \$50,000 Reporting Threshold

The requirement to report to the National Response Center (NRC), within 1 hour, any pipeline incident with response costs estimated to exceed \$50,000 is outdated and unnecessary. The \$50,000 threshold was established in 1984 and, at a minimum, does not reflect an inflation adjusted current value of approximately \$120,000. Additionally, many costs associated with pipeline operation have grown since 1984 at a rate faster than inflation. For instance, all but the most minor incidents will now incur response costs greater than \$50,000. These dynamics expand the practical effect of this reporting requirement far beyond its originally intended scope or level of severity. This has led to both pipeline operators, as well as the NRC, wastefully filing and processing incident reports that do not justify the cost, burden or original policy intent.

Another factor causing over-reporting is operators, oftentimes, are unable to calculate response costs to determine that the \$50,000 threshold will be exceeded until days or weeks after the current 1-hour reporting deadline. This causes operators to overreport minor

incidents to avoid a late filing penalty for incidents which eventually do not reach the reporting threshold. Additionally, NRC practice is not to update previously filed reports to reflect new data, but to instead generate a new, additional incident report, causing further confusion with multiple reports for a single incident.

For these reasons, PHMSA should not merely adjust the \$50,000 NRC reporting threshold for inflation, but instead eliminate it entirely. API and AOPL support the remaining existing NRC reporting criteria for incidents involving fire, explosion, death or impact to water. Leaving these criteria in place while eliminating the dollar cost threshold will allow the NRC program to continue fulfilling its policy goal of alerting authorities and the public to significant pipeline incidents without a wasteful diversion of resources to low impact activities. Further details of the API and AOPL recommendation on this topic are in the detailed attachment.

Conclusion

In addition to the language above, the attached table provides more detail and identifies the following opportunities:

1. Facility Jurisdictional Boundaries
2. Discovery of Condition Reporting and Mitigation
3. Audit Protocols, Coordination and Jurisdictional Limits
4. PHMSA Requests for Information
5. Pipeline Status Definitions
6. Annual Reporting Clarification
7. Appropriate Valve Integrity Testing
8. Proper Pipeline Component Examining
9. Integrity Management Program Improvements
10. Risk-Based Alternative to Pressure Testing Older Pipelines
11. Traceable, Verifiable and Complete Pressure Records

API and AOPL appreciate the opportunity to comment on DOT's notification. API and AOPL stand ready to work with DOT and PHMSA on these recommendations for increasing pipeline safety in a practical and fit-for-purpose manner.