

U.S. House of Representatives
Committee on Transportation & Infrastructure
Subcommittee on Railroads, Pipelines and Hazardous Materials
**Ensuring Safety and Reliability: Examining the Reauthorization Needs of the Pipeline and Hazardous
Materials Safety Administration**
Testimony from the American Petroleum Institute
May 7, 2024

Introduction

Chairman Graves, Chairman Nehls, Ranking Member Larsen and esteemed members of the Subcommittee, thank you for the opportunity to testify this morning. My name is Robin Rorick, and I am the Vice President of Midstream Policy at the American Petroleum Institute (API). On behalf of API¹, we appreciate the opportunity to submit testimony as part of this important hearing addressing pipeline safety and the reauthorization of the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA).

Every day, our nation’s network of more than 500,000 miles of transmission pipelines transports the energy products we rely on. The oil, natural gas, refined products and low carbon energy transported by pipelines fuel modern life. America has led the world in reducing carbon dioxide (CO₂) emissions over the past two decades – even as our industry has made the United States the world’s leading producer of oil and natural gas. The air Americans breathe is cleaner because of innovations to the way energy is produced, transported, refined and consumed. These improvements have driven significant declines in greenhouse gas (GHG) emissions and criteria air pollutants, including nitrogen dioxide, sulfur dioxide and particulate matter. We are also tackling the methane challenge head on. But we need pragmatic, bipartisan energy policies that support the responsible development of our nation’s oil and natural gas

¹ API represents all segments of America’s oil and natural gas 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 the [API Energy Excellence® program](#), 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 800 standards to enhance operational and environmental safety, efficiency, and sustainability. Through the [API Climate Action Framework](#) and related initiatives such as [The Environmental Partnership](#), significant efforts are being conducted by the oil and natural gas industry to balance the increasing demand for affordable and reliable energy products with environmental performance and stewardship.

resources, including policymaking that encourages investment in critical energy infrastructure like pipelines.

Fully harnessing American energy, including bringing the benefits of oil, natural gas and low carbon energy to all parts of the country, depends on new and existing infrastructure. Pipelines – one of the safest, most environmentally responsible ways to transport energy to consumers – are in every U.S. state, totaling roughly three million miles of largely underground gathering, transmission and distribution pipelines. Our industry is committed to achieving an operating standard of zero incidents through comprehensive safety management systems and robust safety programs, including the deployment of advanced inspection and leak detection technologies. Over the last five years, total liquids pipeline incidents decreased 23%, with 87 fewer incidents in 2023 compared to 2019, and liquids pipeline incidents impacting people or the environment decreased seven percent. Operations and maintenance incidents impacting people or the environment declined 54% between 2019 and 2023. Total equipment failure incidents impacting people or the environment decreased 50% between 2019 and 2023. These safety improvements come as our country has built more pipelines and moved more energy resources, with liquids pipeline mileage and barrels delivered both increasing five percent since 2018.² As our industry continues to work with federal, state and local policymakers and regulators to protect the environment and communities where we live and work, we welcome effective and efficient policymaking to help continuously improve pipeline safety while unleashing the power of America’s oil and natural gas.

API Applauds the Bipartisan PIPES Act of 2023

As Congress considers the reauthorization of PHMSA and pipeline safety programs over the coming year, we encourage policymakers to enact legislation that maximizes our industry’s investments in people and technology to effectively advance pipeline safety. To that end, we applaud this Committee’s passage of a comprehensive, bipartisan bill, the Promoting Innovation in Pipeline Efficiency and Safety (PIPES) Act of 2023. The bill the Committee passed in December of last year contains many important policy measures that API is confident will make our nation’s pipeline network safer and more reliable.

Importantly, the bill requires PHMSA to execute a more timely and frequent review process for industry standards that are incorporated by reference into PHMSA regulations. Since 1924, API has been the

² 2023-2025 Pipeline Excellence Strategic Plan & 2022 Performance Report, 2023, https://www.api.org/-/media/APIWebsite/oil-and-natural-gas/primers/API_Pipeline_Report-NRS-Spreads.pdf

leader in developing voluntary, consensus-based, internationally recognized standards covering all segments of the oil and natural gas industry. Our standards are the most widely cited petroleum industry standards by state regulators, with 240 API standards cited over 3,800 times in state-based regulations. There are more than 650 references to API standards in federal regulations.³ These standards are revised and improved every five years at a minimum through API's American National Standards Institute-accredited process, and regulators struggle to keep pace with the advances in pipeline safety technology and modern engineering practices that are regularly incorporated into these standards. Today, approximately 50% of the instances where PHMSA cites API standards are out of date and do not reference the most recent edition. Thus, critical regulations do not reflect advances in safety, technology and engineering, and pipeline operators must comply with the often-antiquated practices referenced in federal regulations. If passed, this bill would ensure that PHMSA is responsive to industry standards updates to maximize safety and ensure regulations keep pace with advances in engineering and technology.

The bill also directs the Secretary of Transportation to allow pipeline operators to establish storage tank inspection frequency on risk-based engineering principles. Current regulations cite outdated practices and industry standards, requiring internal inspections to be conducted more often than may be necessary to maintain them safely. This unnecessarily puts workers in harm's way, generates undesirable emissions, requires operators to take tanks out of service and fails to reflect current industry leading approaches. Directing PHMSA to update its regulations concerning tank inspections will maintain the current level of safety while minimizing safety risks for workers and environmental impacts.

The legislation will also help improve pipeline safety through the creation of a voluntary information-sharing system operators can use to gather incident data and share lessons learned in a confidential environment. We appreciate the information protections established in the bill, which are critical to encourage operator participation, so the voluntary system can function as Congress intends. The Act also strengthens protections for pipeline infrastructure by criminalizing activities that cause a defect in or disrupt operation of a pipeline. Finally, the bill encourages innovation and investment in a cleaner energy future by requiring PHMSA to promulgate a rulemaking within one year of enactment on pipeline transportation of carbon dioxide, which is critical to our energy future, and directing PHMSA to complete a study and rulemaking on the safe use of composite pipe materials. The unique properties of composite

³ OGP Report No. 426, Regulators' Use of Standards, March 2010

pipeline materials could be useful for retrofitting existing systems for conversion of service from transporting hydrocarbons to new fuels as well as to support the buildout of new infrastructure, but PHMSA must allow for broader acceptance and application without requiring use of the special permit program. We commend the Committee for taking these critical steps.

In addition to these important pipeline safety policy measures, API appreciates the Committee's recognition of the important conservation efforts that pipeline operators have embraced. Many API members are using non-traditional methods, such as conservation and habitat management programs, to support pollinators and native species while maintaining their pipeline rights of way. Clarifying in statute that these alternative approaches to maintaining pipeline rights of way are safe and encouraged could lead to broader adoption.

Proposals to Further Improve Safety and Reliability

This legislation is a strong starting point, but we also encourage members of this Committee to consider supporting additional provisions as you work towards final passage of a bill. In particular, we would like to note two provisions that are included in other pipeline safety legislation passed by your counterparts at the Energy and Commerce Committee, which we believe will complement your draft bill and work to improve pipeline safety.

API encourages this Committee to consider supporting language clarifying who has jurisdiction over short segments of pipe within gas processing and refining facilities, also known as "in-plant" piping. These pipelines are operated by plant personnel, run between facility buildings and are less than one mile in length. Liquid in-plant piping is regulated by the Occupational Safety and Health Administration (OSHA) through its Process Safety Management program as directed by Congress in statute. However, Congress failed to provide similar clear instructions when it comes to gas in-plant piping. Historically, PHMSA has deferred to OSHA as the primary regulator given its expertise on the liquid side, but the lack of statutory clarity has created a vacuum that certain regional PHMSA offices have tried to exploit to expand their jurisdiction. This regulatory grey area has led to confusion among pipeline operators who need certainty when it comes to what standards apply and what inspection schedule to follow. We recommend the Committee create an exemption for gas processing facilities that mirrors the one for liquid pipelines to provide operators with regulatory certainty and consistency while still ensuring safety.

API also urges this Committee to support efforts to reauthorize PHMSA's technology pilot program, which was created by the PIPES Act of 2020. The program was intended to give operators a chance to demonstrate and apply proven technologies and engineering practices through a time limited process distinct from the special permit program. Unfortunately, no operators have applied since the program was created because PHMSA imposed numerous application requirements that made the process too burdensome to warrant participation. Reauthorizing the program with clarifying language to ensure it is run as Congress intended and gives operators the opportunity to prove the use case for new technologies could produce significant safety benefits by proving out new technologies for broader use.

As the Committee works with other authorizers towards a final bill, we encourage you to support inclusion of these important provisions that would complement your bill.

Related Critical Pipeline Safety Issues

As Congress considers legislation to reauthorize PHMSA, we urge this Committee to conduct diligent oversight of the agency's efforts to issue new regulations related to leak detection and repair (LDAR). In particular, ensuring PHMSA conducts a thorough analysis of the costs and benefits of its regulations is critical to sound policymaking. While API supports PHMSA's goal of addressing methane emissions – our industry is constantly innovating and investing in new technologies to prevent leaks and reduce our emissions – we believe the current proposed rule was written such that the benefits in certain instances do not justify the costs. Our industry is actively engaged in the regulatory process to help PHMSA craft a workable final LDAR rule that is more effective and efficient by considering the latest technology and management systems to reduce emissions. However, as written, there are significant hurdles that must be overcome to reach that result.

This rulemaking is a direct result of the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act, a pipeline safety bill Congress passed in 2020. Unfortunately, PHMSA chose to go beyond the scope of what Congress originally intended by extending the application of LDAR requirements to gas gathering lines in Class 1 locations and liquefied natural gas (LNG) facilities, setting the leak detection threshold so low as to risk being triggered by emission sources unrelated to the pipeline system.

PHMSA's attempt to expand their proposed LDAR rule to include gathering lines illustrates the importance of PHMSA conducting accurate cost-benefit analyses. In the rulemaking process, PHMSA relied on a flawed cost-benefit analysis that failed to include significant compliance costs that would be

imposed on the industry resulting in a highly inaccurate justification for the proposed rule. If enacted, these regulations would result in limited emissions reductions in comparison to the billions of dollars in compliance costs on the gathering line industry, costs disproportionately borne by small companies that operate some of the lowest risk pipelines in the U.S.

API supports the agency's desire to make gathering lines safer, but PHMSA should be obligated to consider more practical alternatives that would still achieve the stated pipeline safety objectives and would remain true to Congressional intent. Section 113 of the PIPES Act of 2020, which directed PHMSA to issue an LDAR rule, does not apply to Type C gathering lines in Class 1 locations. These gathering lines only recently became subject to the basic leak survey and repair requirements in Part 192. API remains committed to maintaining gathering line safety through a risk-based approach, but we believe the decision to include gathering lines in the LDAR rule was premature and goes beyond the scope of what Congress directed the agency to do in the PIPES Act of 2020. In addition to failing to consider all the rule's costs, PHMSA failed to demonstrate any benefits that could justify some portions of the rule. PHMSA has not offered a legitimate safety or environmental rationale for establishing a highly conservative and overly burdensome leak detection threshold that could potentially be triggered by non-pipeline, human-caused sources of emissions. This dovetails with PHMSA's decision to conflate all leaks with hazardous leaks. The proposed leak detection standards impose a detectability threshold far more conservative than comparable EPA requirements under the New Sources Performance Standards, prohibit the use of many proven technologies and do not advance safety or environmental protection.⁴

PHMSA's current efforts to promulgate an LDAR rule provide multiple lessons for its authorizing Committees to consider as work continues on a reauthorization bill. PHMSA has held two meetings of its Gas Pipeline Advisory Committee to discuss this important rule, but industry has seen little indication that the final rule will take into account the feedback that API and other stakeholders provided to make the final rule more aligned with the agency's statutory mandate. It is vital that Congress offers as much clarity as possible for PHMSA when directing them to issue regulations to ensure that the final outcomes are achievable and implementable. In addition, PHMSA must continue to be held accountable for complying with the cost-benefit requirements included in the risk assessment provision of the Pipeline

⁴ As explained in the comments submitted by API and other industry stakeholders, PHMSA's preliminary risk assessment for the LDAR rule contains many of the same defects that led to the invalidation of the rupture-mitigation valve requirements for gathering lines in *GPA Midstream Ass'n v. United States Dep't of Transp.*, 67 F.4th 1188 (D.C. Cir. 2023).

Safety Act to ensure the agency's rulemakings are implementable and achieve the intended improvements in safety.

With the LDAR example in mind, API urges the Committee to pay close attention to the agency's CO₂ pipeline safety proposal, which is currently under review at the Office of Management and Budget. Your bill includes important guidance and guard rails for the contents of such a rule, but it appears likely that PHMSA will publish an NPRM prior to passage of the bill.

Currently, there are more than 5,000 miles of CO₂ pipeline nationwide, transporting approximately 80 million metric tons of CO₂ each year. Industry has been operating CO₂ pipelines safely for more than four decades, with no fatalities associated with a CO₂ pipeline incident. This safety record is possible because of the comprehensive existing regulatory framework for CO₂ pipelines. 49 CFR Part 195 regulates the design and construction, operation and maintenance, and corrosion prevention and mitigation of supercritical CO₂ pipelines. In addition to these regulations, there are many existing industry standards and response guidance documents that can be applied by CO₂ pipeline operators. Last year, API and the Liquid Energy Pipeline Association, with input from the National Association of State Fire Marshals, published an emergency response guide for first responders. Research and standards development are ongoing as industry looks to build out CO₂ pipeline infrastructure to help reach climate goals.

Given CO₂ pipelines' safety record and the robust existing body of regulations and best practices, API recommends that this new rulemaking focus on expanding the existing regulatory program to encompass gas phase transportation of CO₂ as well as supercritical. PHMSA should also ensure that the rule is technically feasible, risk based and scalable to reflect the diverse range of CO₂ pipeline projects and applications that operators are considering.

Carbon capture and sequestration will play a critical role in reducing emissions and meeting climate goals. Pipelines to transport captured CO₂ will be integral, and PHMSA's rulemaking should support rather than hinder the buildout of additional infrastructure. API will provide comments and engage in the rulemaking process, and we urge PHMSA's authorizing committees to engage in this process as well to ensure the rule is fit for purpose and aligns with policymakers' goals.

Safely Maintaining America's Energy Leadership

The United States is now the largest producer of oil and natural gas, which are critical energy resources here at home as well as for our allies abroad. And we continue to lead the world in reducing emissions.

These advances come not from government intervention but through industry innovation and investment. For America to seize upon this moment of energy leadership with its abundant natural resources, Congress must enact pipeline safety policy that is fit-for-purpose and based on sound science and engineering principles. Pipelines are an essential cog in the energy supply chain. They have enabled our country's record-breaking energy production by transporting oil, refined products, low carbon energy sources and natural gas in one of the safest and most environmentally friendly modes possible. While the industry is proud of its safety record, it remains committed to continual safety improvements as it strives to meet the shared goal of zero incidents.

Pipeline safety is not a partisan issue, and API is eager to partner with legislators and regulators at both the state and federal levels to ensure pipelines are regulated effectively and operated safely. Importantly, though, any regulations must be balanced to ensure that the industry can achieve these objectives while continuing to bring affordable, reliable energy to American families and businesses to meet growing energy demand, support our domestic economy and provide good-paying jobs. Only with effective legislation like the Promoting Innovation in Pipeline Efficiency and Safety Act of 2023 can our industry meet the dual challenge of answering ever-growing energy demand while leading the world in emissions reductions.

Mr. Chairman, Mr. Ranking Member and distinguished members of the Subcommittee, this concludes my prepared statement. I look forward to the continued bipartisan efforts to address critical issues of pipeline safety that I have outlined today, and I would be happy to answer any questions you may have at this time.