

API's Vision for American Energy Leadership: Recommendations for the Department of Transportation

As we move into a new era of energy leadership, the Department of Transportation (DOT) plays a critical role in ensuring the safe, efficient and reliable transportation of energy resources across the country. Whether via pipelines, rail, highways or marine routes, DOT's regulatory frameworks and infrastructure investments are key to maintaining efficient and reliable energy supply chains and delivering energy at lower costs for consumers.

Transportation issues intersect with the oil and gas industry in several areas. The National Highway Traffic Safety Administration (NHTSA) supports surface transportation and implements the Corporate Average Fuel Economy (CAFE) standards. The Pipeline and Hazardous Materials Safety Administration (PHMSA) oversees liquefied natural gas (LNG) facility and pipeline safety and ensures the safe transport of oil and gas, as well as hazardous materials by rail.

As the oil and gas industry works to meet growing energy needs and drive economic growth, DOT should foster a regulatory environment that promotes safety, innovation and collaboration. To help secure American energy dominance, DOT should prioritize policies that enhance industry partnership and return to their core mission of transportation safety.

Included below are the following:

- Corporate Average Fuel Economy (CAFE) Standards (*NHTSA*)
- Fuel Efficiency and Greenhouse Gas Standards for Medium- and Heavy-Duty Engines and Vehicles (*NHTSA*)
- Leak Detection and Repair Rulemaking (*PHMSA*)
- Class Location Rulemaking (*PHMSA*)
- CO2 Pipeline Safety Rulemaking (*PHMSA*)
- LNG Facility Safety Rulemaking (*PHMSA*)
- Repair Criteria Rulemaking (*PHMSA*)
- Pipeline Operating Status (Idle Pipe) Rulemaking (*PHMSA*)
- Incorporation by Reference, API Standard 653 (*PHMSA*)
- Enhancing Safety for High-Hazard Trains (HHTs) (*PHMSA*)
- BVLOS Drone Regulations (*FAA*)

National Highway Safety Administration (NHTSA)

Key Issues:

- **Corporate Average Fuel Economy (CAFE) Standards**

API Ask: Repeal the CAFE standards for Passenger Cars, and Light Trucks, and Heavy-Duty Pickup Trucks and Vans. The light-duty rule is currently under litigation and the Administration should ask the court to vacate the rule and remand to the agency.

Context: NHTSA's CAFE standards align with EPA's flawed tailpipe rule and apply to passenger cars, light trucks, and heavy-duty pickups and vans. NHTSA relied on the unrealistic assumption of widespread compliance with California's EV regulations, such as Advanced Clean Cars (ACC) I and ACC II, overlooking uncertainties in technology and infrastructure readiness. These rules ignore diverse fuel and vehicle options and instead impose specific powertrain technologies on consumers. Additionally, NHTSA should not adopt a heavy-duty vehicle rule similar to EPA's, which heavily relies on electrification and could impose economy-wide costs on American consumers and businesses.

- **Fuel Efficiency and Greenhouse Gas Standards for Medium- and Heavy-Duty Engines and Vehicles**

API ask: Do not proceed with NHTSA's rulemaking related to fuel efficiency standards for medium- and heavy-duty vehicles.

Context: DOT has been in the process of developing fuel efficiency and emissions standards for medium- and heavy-duty engines and vehicles but has not yet proposed a rule. These rules would accompany the misguided EPA final rule for heavy-duty vehicles. A DOT rule for medium- and heavy-duty vehicles is unnecessary, and NHSTA should not proceed with such a proposal.

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Key Issues:

- **Leak Detection and Repair Rulemaking**

API Ask: Withdraw the rule from OMB, then review and revise to reflect recommended changes from industry in post-Gas Pipeline Advisory Committee (GPAC) letters.

Context: While the 2020 PIPES Act required PHMSA to publish this rulemaking, the previous Administration used this rule to expand the agency's mission beyond safety. In its proposed LDAR Rule, PHMSA exceeds its Congressional mandate with the inclusion of Type C rural gathering lines, pure hydrogen pipelines, LNG, and a national pipeline mapping system submission requirement. PHMSA should be consistent with statutory intent and remove these four components from the final rule. Additionally, any leak detection component in the final rule should align with EPA detection standards and measures.

- **Class Location Rulemaking**

API Ask: Publish a final rule as required by the 2020 PIPES Act that is consistent with GPAC recommendations.

Context: The natural gas industry has long advocated for regulatory updates recognizing the proven value and success of class location special permits that incorporate safety-focused, risk-based practices. Despite mandates from the 2016 and 2020 pipeline safety bills and a Notice of Proposed Rulemaking (NPRM) published in October 2020, PHMSA has yet to issue a final rule. Continued delays reflect PHMSA's failure to acknowledge the importance of leveraging advanced technology for risk assessment, hindering progress and safety enhancements in the industry.

- **CO2 Pipeline Safety Rulemaking**

API Ask: Withdraw the existing draft from OMB then move forward with a rule that addresses the movement of CO2 in a gaseous phase.

Context: Building out the CO2 pipeline network is crucial for supporting enhanced oil recovery (EOR), advancing carbon sequestration, and meeting growing energy demand. This infrastructure supports greater oil and gas development, creates essential jobs nationwide, and promotes U.S. competitiveness. However, opposition to new CO2 pipelines has been driven by safety concerns and the perception of inadequate regulations. Some states, like Illinois, have gone so far as to prohibit the development of new CO2 pipelines until PHMSA has completed its CO2 regulations. Currently, rules exist for the movement of CO2 in pipelines in the supercritical liquid phase, but they do not exist for gaseous CO2 transportation. The previous Administration's delay in publishing updated safety standards for CO2 transportation in the gaseous phase exacerbates public concerns and stalls critical infrastructure projects.

- **LNG Facility Safety Rulemaking**

API Ask: Review, revise and develop a rule for large-scale liquefaction facility safety, which will ensure consistency with existing Operational Safety and Health Administration (OSHA) process safety requirements.

Context: The 2020 PIPES Act mandates an alternate process safety management approach for large-scale liquefaction facilities, but PHMSA has failed to publish a rule. Current regulations are significantly outdated and are neither risk-based nor fit-for-purpose for these facilities. A revised regulatory framework should mirror the risk-based process safety management approach utilized by operators of refineries and other downstream facilities under OSHA. A completed rule would support U.S. LNG development by providing greater certainty in safety requirements for operators and other stakeholders.

- **Repair Criteria Rulemaking**

API Ask: Propose a rule to revise liquid pipeline repair criteria to reflect current industry engineering expertise and incorporate the latest versions of consensus-based codes and standards.

Context: PHMSA's repair criteria have remained largely unchanged for decades despite significant industry advances. The removal of repair criteria from the 2019 hazardous liquid rule further delayed critical, fit-for-purpose updates. As a result, operators are required to make repairs that do not offer measurable safety benefits and unnecessarily increase energy costs. Innovations in inspection technology and engineering practices have vastly improved the industry's ability to identify, assess, and address pipeline integrity threats. These advancements should be integrated into updated repair criteria to ensure regulations align with modern capabilities.

- **Pipeline Operating Status (Idle Pipe) Rulemaking**

API Ask: Enhance future U.S. energy transportation capacity by publishing a rule to address a regulatory gap for pipelines that are in "idle" status, which incorporates by reference API Recommended Practice (RP) 1181, *Pipeline Operational Status Determination*.

Context: Market and commercial drivers often result in pipelines being placed in an "idled" status, which allows pipelines to remain in place while not in operation. The 2020 PIPES Act mandated that PHMSA update regulations on idle pipes. PHMSA's continued delay in publishing the rule puts operators at risk of potential easement issues with landowners due to a lack of recognition of an idle status in regulation. Making idled pipe available for future use could increase transportation capacity while avoiding permitting challenges associated with greenfield pipeline development.

- **Incorporation by Reference, API RP 653, *Tank Inspection, Repair, Alteration and Reconstruction***

API Ask: Incorporate by reference the 5th edition of API RP 653, *Tank Inspection, Repair, Alteration and Reconstruction* into current pipeline safety regulations, which would limit disruptions to fuel service and availability.

Context: Current storage tank inspection requirements force operators to unnecessarily remove crude and refined product storage tanks from service, delaying energy distribution. PHMSA needs to expand risk-based inspection and fitness-for-service assessment processes so that operators can use these tools to collect data and implement safeguards to maintain tank integrity. Existing regulations require inspections to be completed at defined, prescribed intervals without consideration of safety and environmental risks and impacts associated with taking the tanks out of service. Alternatively, modern industry standards account for the latest innovations and technologies, incorporate risk-based inspection intervals, and importantly, are accepted by other federal and state agencies, including EPA's Spill Prevention, Control, and Countermeasure (SPCC) program.

- **Enhancing Safety for High-Hazard Trains (HHTs)**

API Ask: Do not issue the proposed rule without further consultation with the FRA Railroad Safety Advisory Committee (RSAC) to ensure appropriate feedback is incorporated.

Context: High Hazard Flammable Trains are subject to additional federal safety requirements concerning advance notification of emergency responders, lower maximum speeds, and restrictions on using older railcars. The RSAC had formed a Hazardous Materials Issues Working Group to review existing regulations aimed at addressing safety issues not previously contemplated and emerging and anticipated safety issues. This working group was to be directed by a DOT Team consisting of participants from FRA and PHMSA.

Federal Aviation Administration (FAA)

- **BVLOS Drone Regulations**

API Ask: Complete the rulemaking process for Beyond Visual Line of Sight (BVLOS) to allow for safe and expanded uses of drones in the national air space.

Context: The use of drones beyond visual line of sight is a critical opportunity for oil and natural gas operators to improve inspection operations, reduce risk to personnel, and collect important safety data. While industry acknowledges the importance of maintaining the safety of operations in the national airspace, this rulemaking and the ability to appropriately use drones has long been sought by multiple industries.