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May 19, 2017

DOT Docket Operations, M-30  
Docket #PHMSA-2016-0077  
U.S. Department of Transportation  
West Building Ground Floor, Room W12-140  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590-0001

RE: Comments of the Independent Petroleum Association of America and American Exploration & Production Council in response to Advance Notice of Proposed Rulemaking, "Hazardous Materials: Volatility of Unrefined Petroleum Products and Class 3 Materials," Docket No. PHMSA-2016-0077

The Independent Petroleum Association of America (IPAA) and the American Exploration & Production Council (AXPC) submit the following comments in response to the Advance Notice of Proposed Rulemaking (ANPRM), issued on January 18, 2017, by the U.S. Department of Transportation's (DOT's) Pipeline and Hazardous Materials Safety Administration (PHMSA) in Docket No. PHMSA-2016-0077. PHMSA extended the comment deadline to May 19, 2017 in a March 21 Federal Register notice.

IPAA represents the companies that drill 90 percent of the nation's oil and natural gas wells. These companies produce 82 percent of American natural gas and 68 percent of American oil. IPAA members represent the full range of producers, from small family-owned businesses, to the large independent companies that are some of the largest domestic natural gas producers.

AXPC is a national trade association representing 31 of America's largest and most active independent natural gas and crude oil exploration and production companies. AXPC's members are "independent" in that their operations are limited to the exploration for and production of natural gas and crude oil. Moreover, its members operate autonomously, unlike their fully integrated counterparts, which operate in additional segments of the energy business, such as downstream refining and marketing. AXPC's members are leaders in developing and applying the innovative and advanced technologies necessary to explore for and produce crude oil and natural gas, and that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways.

IPAA and AXPC urge PHMSA to reconsider the ANPRM, as it is premature given ongoing studies and the directive from the Office of Management and Budget (OMB), "Promoting Energy Independence and Economic Growth." In keeping with the OMB guidance, PHMSA

also should reevaluate its sampling and testing program as it applies to crude oil transported by truck. PHMSA implemented its sampling and testing program in a joint rulemaking with the Federal Railroad Administration (FRA), with the notice directed exclusively at crude transported by rail. As such, the program did not clearly solicit input from affected producers. PHMSA's efforts to enforce the program have resulted in an ad hoc compliance program, with producers being forced to comply with extremely tight time constraints. The process and the resulting program do not achieve the goals of producers and PHMSA to transport hazardous materials in a safe manner.

When the New York Attorney General petitioned PHMSA on December 1, 2015, DOT and the U.S. Department of Energy (DOE) already had commissioned a review of available crude oil chemical and physical property data literature "to characterize and define tight crude oils based on their chemical and physical properties, and identify properties that could contribute to increased potential for accidental combustion" (ANPRM Federal Register at p. 5504). This study, conducted by Sandia National Laboratories, is being conducted in "a phased approach, in that knowledge gained from completing each task will inform the execution of subsequent tasks to maximize efficiency in achieving overall plan objectives" (FR at . 5505). The project currently is in Task 2, which is designed to determine what methods of sampling and analysis are suitable for characterizing the physical and chemical properties of different crude oils. Acting on the ANPRM at this time would ignore the information that will be provided under the Sandia study.

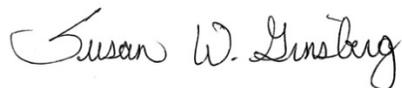
PHMSA issued the ANPRM shortly before the beginning of the Trump Administration. Since the publication of ANPRM, OMB issued on May 8, 2017 a memorandum requiring the head of each Executive Department and Agency "to review all of that agency's existing regulations, orders, guidance documents, policies, and any other similar agency actions...that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources." Agencies must submit to OMB a draft final report on this review by July 26, 2017. Again, the ANPRM is premature in light of this directive.

Another area that would fall under this review is PHMSA's sampling and testing program as it is being applied to crude oil transported by truck. PHMSA proposed changes that would affect sampling and testing for all modes of transportation, yet included this significant change in a rulemaking, "Enhanced tank Car Standards and Operational Controls for High-Hazard Flammable Trains," which became effective in July 2015. Since that time, PHMSA has enforced the new program on producers, many of whom were unaware of the new requirements. To the best of our knowledge, PHMSA has not levied fines on producers without a sampling and testing program that would be deemed in compliance with its revised regulations. However, to avoid fines, producers had to develop a plan within 30 days. Such a tight compliance deadline, with each producer acting individually, is not likely to yield the most effective program. Given the obscure manner in which PHMSA proposed and adopted the changes to the sampling and testing program, PHMSA did not receive beneficial input from producers. PHMSA should take the opportunity of the May 8 OMB directive to reconsider its sampling and testing program to allow for consultation with crude oil producers and transporters.

IPAA and AXPC focus our comments on Question #9 of PHMSA's ANPRM that seeks comments on applying a nationwide vapor pressure standard to all modes of transportation. This question goes well beyond the petition, which had focused only on rail transport. IPAA and AXPC strongly oppose any effort to establish a limit on RVP and endorses the comments submitted by the American Petroleum Institute that a limit on RVP does not advance safety for transporting crude oil and in fact would lead to serious unintended consequences. As discussed above, any effort to act on the ANPRM, much less expand it to all modes of transportation, is highly premature.

IPAA and AXPC members endeavor to produce and deliver their products in a safe manner. Regulations that do not provide for meaningful input, or that supersede ongoing studies, do not help achieve the goal of safe delivery. IPAA and AXPC would look forward to working with PHMSA to provide input on implementing a revised sampling and testing program.

Respectfully submitted,



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