

UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS
SAFETY ADMINISTRATION

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LIQUID PIPELINE ADVISORY COMMITTEE MEETING

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WEDNESDAY
AUGUST 17, 2022

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The Liquid Pipeline Advisory Committee
met via Video Teleconference, at 10:35 a.m. EDT,
Diane X. Burman, Chairperson, presiding.

COMMITTEE MEMBERS PRESENT

DIANE X. BURMAN, Chairperson; Commissioner, New
York State Public Service Commission
GRAHAM W. BACON, Executive Vice President and
Chief Operating Officer, Enterprise Products
Partners, L.P.
DAVID BARNETT, Special Representative, United
Association of Plumbers and Pipefitters
JERRY K. BARNHILL, Group Vice President and Chief
EHS Officer, DCP Midstream
BILL CARAM, Executive Director, Pipeline Safety
Trust
C. TODD DENTON, President, Phillips 66 Pipeline
LLC
ANGELA D. KOLAR, Vice President, Operations
Services and Chief Risk Officer, Colonial
Pipeline Company
CHARLES LESNIAK, III
SHAWN M. LYON, President, Marathon Pipe Line,
LLC

SARAH K. MAGRUDER LYLE, President and CEO, Common
Ground Alliance

JONATHAN WOLFGRAM, Chief Engineer and Program
Manager, Minnesota Department of Public
Safety

PHMSA STAFF PRESENT

ALAN MAYBERRY, DFO, Associate Administrator for
Pipeline Safety

CLAYTON BODELL, Standards and Rulemaking
Division for Pipeline Safety

NATHAN COLE, Attorney Advisor

AMAL DERIA, Attorney Advisor

CHARLES ENLOE, Office of the Secretary

SEAN FORD, Office of the Secretary

JOHN GALE, Director, Standards and Rulemaking
Division for Pipeline Safety

LEIGHA GOODING, Supervisor, Operations Systems
Division

ALANNA HERRON, Technical Advisor, Office of
Associate Administrator for Pipeline
Safety

ROBERT JAGGER, Standards and Rulemaking Division
for Pipeline Safety

BLAINE KEENER, Director, Operations Systems
Division

AHMAD MAATY, Economist, Economic Research and
Regulatory Analysis Division

RYAN MCCLURE, Attorney Advisor

JANICE MORGAN, Analyst, Financial Administration
and Resource Management

SAYLER PALABRICA, Standards and Rulemaking
Division for Pipeline Safety

CAMERON SATTERTHWAITE, Operations Supervisor,
Standards and Rulemaking Division for
Pipeline Safety

NATHANIEL THOMPSON, GIS Coordinator, Operations
Systems Division

ROBERT ROSS, Assistant Chief Counsel

LYDIA WANG, Environment Protection Specialist,
Office of Planning and Analytics

ERMIAS WELDEMICAEL, Director, Economic Research
and Regulatory Analysis Division

ALSO PRESENT

BRAD ADAMS, LOOP, LLC
THOMAS BASLEY, Plains All American
BRYAN BOCHT, LHB
DEWITT BURDEAUX, RCP
KEITH COYLE, Babst Calland
BRIAN DYER, ConocoPhillips
BONNIE FREEMAN, FreemanGIS, Inc.
MATTHEW HITE, GPA Midstream Association
JAMES HOLLAND, Kinder Morgan, Inc.
CHRISTIAN JOHNSON, New Century Integrity Plus
BRIA KASK, Lake Superior Consulting
CHRIS KUHMAN, Babst Calland
JASON LAMBERT, Williams Companies
GREG LEBLANC, Equistar Chemicals, LP
SAAD MARAQA, Seismos
REBECCA MARKS, Citgo
WALLACE MCGAUGHEY, G2 Integrated Solutions, LLC
SHEILA MCGINTY, Williams Companies
JEFF MORTON, Enterprise Products
DAVID MURK, American Petroleum Institute
SUSAN OLENCHUK, Van Ness Feldman LLP

MARK PIAZZA, American Petroleum Institute

CHERYL ROWELL, Williams Companies

DOUG SAUER, Phillips 66 Pipeline LLC

JOHN STOODY, Liquid Energy Pipeline Association

CORRIE TOWNS, DTE Energy

PAT WESTRICK, Integrity Plus

KAYE WHITE WALKER, Williams Companies

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P-R-O-C-E-E-D-I-N-G-S

10:35 a.m.

MR. GALE: Good morning, members, and good morning, public, and welcome to a meeting of the Liquid Pipeline Advisory Committee to discuss our rulemaking on Unusually Sensitive Areas.

I apologize for the earlier technical difficulty, but I want to thank Cameron Satterthwaite of PHMSA staff for rectifying that situation very fast and very professionally.

So if there are any folks out there that you know are having connection issues, please make sure to refer them to the new link. That would be greatly appreciated.

With those just opening remarks, I am going to turn it over to Alan Mayberry, our Associate Administrator for Pipeline Safety, to get us started. Alan?

MR. MAYBERRY: Okay. Getting my background right.

Thank you, John. And good morning, and thank you for attending this meeting of the

1 Liquid Pipeline Advisory Committee. Today we'll
2 be discussing the Interim Final Rule on Unusually
3 Sensitive Areas.

4 I am Alan Mayberry, the Associate
5 Administrator for Pipeline Safety at PHMSA. And
6 pursuant to the Federal Advisory Committee Act,
7 I'm the Designated Federal Official for LPAC and
8 will serve as the presiding official for this
9 meeting.

10 Our Chairperson for this meeting today
11 is the Honorable Diane Burman, who is a
12 Commissioner for the New York State Public
13 Service Commission. And Diane will be talking
14 more in a minute here, but thank you for agreeing
15 to chair today's meeting.

16 Before we get too far along, I'd like
17 to give a brief safety moment. And that is very
18 simple: that, recently, we celebrated 811 Day
19 across the country, and certainly, we sent a
20 number of messages out on social media, and many
21 of you did as well. And perhaps many of you
22 received those messages.

1 But it's just a reminder, since we're
2 shortly after August 11th, to remember to call
3 before you dig. I realize, with many in this
4 group, I'm singing to the choir there, but just a
5 reminder to call before you dig, and not only
6 that, but also dig safely when you do dig.
7 Because, well, we certainly see data that shows
8 that people are calling, more people are calling,
9 and certainly the need to exercise safety during
10 the excavation activities is important.

11 Now I'll recognize that among the
12 Committee here is the President and CEO of the
13 Common Ground Alliance. Sara Magruder Lyle,
14 thank you for your leadership in this area and
15 the good work that is done by you and your staff
16 at the Common Ground Alliance.

17 I'll be getting into a few more
18 updates here in a minute. But, at this time,
19 I'll go over a few standard housekeeping items to
20 help ensure the meeting runs smoothly.

21 Now this is a virtual meeting, but not
22 all participants will have full access to

1 controls for providing comments. And while
2 Committee members will have full participation
3 access, public participants will be provided the
4 opportunity to comment and ask questions at
5 allotted times.

6 If you're not presenting or speaking,
7 please mute your microphone to minimize
8 disruptions. If necessary, take a moment now to
9 check that you're muted.

10 And we ask that you hold any comments
11 until we open the floor for discussion. And for
12 members of the public, when you're acknowledged,
13 please limit your comments to two minutes or
14 less. If necessary, the Chairperson may ask you
15 to cut your comments short to keep the agenda
16 moving.

17 You can submit written comments under
18 the Advisory Committee docket. And you'll hear
19 this a couple of times during this meeting, but
20 the Docket No. is PHMSA-2022-0077.

21 A transcript of the meeting will be
22 available to the public and the public docket on

1 the PHMSA meeting page two to three weeks after
2 the meeting.

3 In an effort to maintain order and
4 decorum, and the schedule throughout the meeting,
5 we ask that both Committee members and the public
6 adhere to some basic rules.

7 Please don't delay or disrupt the
8 meeting. Do not interrupt speakers or
9 presenters. I know this is all common sense.
10 Please follow the instructions of the Chairperson
11 or myself, as the presiding officer. And please
12 know that anyone who disrupts the meeting will be
13 disconnected.

14 And at this point, that concludes our
15 housekeeping items. So I'll now hand the meeting
16 over to our Chairperson, Commissioner Burman.

17 And I'll be back to say a few words
18 after Commissioner Burman goes through a few
19 other items that we need to do at the start of
20 the meeting. So over to you, Commissioner
21 Burman. Thank you.

22 CHAIR BURMAN: Thank you so much,

1 Alan, and thank you for your remarks.

2 So my name is Diane Burman. As Alan
3 said, I've been a Commissioner for the New York
4 State Public Service Commission since 2013, and
5 as Alan said, I will serve as the Chairperson for
6 this meeting today.

7 I hereby now call this meeting of the
8 Liquid Pipeline Advisory Committee to order.

9 This meeting is being recorded and a
10 transcript will be produced for the record.

11 I'd like to take a moment to recognize
12 the court reporter and thank him. If at any
13 time, because this is virtual, if at any time you
14 cannot hear us, please don't hesitate to speak,
15 so that we could address that right away.

16 The transcript and the presentations
17 will be available on the meeting page of the
18 PHMSA website and on the e-gov docket or
19 regulations.gov. The Docket No. for this meeting
20 is PHMSA-2022-0077.

21 Now again, before we get started, I
22 will, for the record, remind folks -- the

1 members, presenters, and the public -- of some
2 things that Alan may have already said.

3 One is please remember to introduce
4 yourselves each time you speak and who you're
5 with, so that your comments are properly recorded
6 in the transcript for this meeting.

7 Additionally, members should hit the
8 Raise Hand on Microsoft Teams to alert us if you
9 wish to make a comment.

10 Continually check that your mic is
11 muted if you are not speaking, and when you are
12 speaking, to unmute.

13 I'd like to also take this opportunity
14 now to conduct roll call. Cameron, would you be
15 willing to do that for us?

16 MR. SATTERTHWAITE: Yes.

17 All right. We will go right into the
18 roll call. So once you hear your name, just
19 unmute yourself and say here, and that's all I
20 need. Starting off with Jeff Lance.

21 Jon Wolfgram?

22 MEMBER WOLFGRAM: Here.

1 MR. SATTERTHWAITE: Diane Burman?
2 CHAIR BURMAN: Here.
3 MR. SATTERTHWAITE: Graham Bacon?
4 MEMBER BACON: Here.
5 MR. SATTERTHWAITE: Jerry Barnhill?
6 MEMBER BARNHILL: Here.
7 MR. SATTERTHWAITE: Angela Kolar?
8 MEMBER KOLAR: Here.
9 MR. SATTERTHWAITE: Todd Denton?
10 MEMBER DENTON: Here.
11 MR. SATTERTHWAITE: Shawn Lyon?
12 MEMBER LYON: Here.
13 MR. SATTERTHWAITE: Lanny Armstrong?
14 David Barnett?
15 MEMBER BARNETT: Here.
16 MR. SATTERTHWAITE: Charles Chuck
17 Lesniak?
18 MEMBER LESNIAK: Here.
19 MR. SATTERTHWAITE: Sarah Magruder
20 Lyle?
21 MEMBER MAGRUDER LYLE: Here.
22 MR. SATTERTHWAITE: And Bill Caram?

1 MEMBER CARAM: Here.

2 MR. SATTERTHWAITE: All right. We
3 have a quorum. Thank you very much.

4 I'll turn it back over to you, Diane.

5 CHAIR BURMAN: Thank you so much. We
6 do have a quorum. So we can proceed with the
7 meeting.

8 I'd now like to also turn it to Alan.
9 Do you want to go next?

10 MR. MAYBERRY: That sounds good,
11 Diane. Thank you very much.

12 As you know, planning these meetings
13 takes a lot of work and coordination. So I'd
14 like to take a moment to introduce PHMSA staff
15 who made all this possible today.

16 And by the way, we're in Washington,
17 D.C., here at our Headquarters Office. And a lot
18 of us are here present today that will be
19 talking, but some are not.

20 But let me go through a list of folks
21 that we have that made this possible today.

22 Massoud Tahamtani, he's my Deputy for

1 Policy and Programs. John Gale, who's Director
2 of Standards and Rulemaking. Cameron
3 Satterthwaite, who's the supervisor in John's
4 office. Amal Deria, who's an attorney advisor.

5 Janice Morgan, who helps us with
6 meeting planning. Jenny Donahue, who does just
7 an outstanding job of writing herd on us to get
8 Federal Register notices out and making sure
9 those are all in order, and a variety of other
10 aspects of this. And then Robert Jagger, Sayler
11 Palabrica, and then Tewabe Asebe.

12 Thanks so much for the hard work of
13 the staff there. With that, let me give you a
14 couple of updates before we get into the topic at
15 hand related to unusually sensitive areas.

16 We still have a very busy rulemaking
17 docket, and we're making progress. And we
18 certainly appreciate everyone's efforts to that
19 end. Whether you're the marvelous staff we have
20 here at PHMSA's Office of Pipeline Safety, the
21 various stakeholders, the industry, the public,
22 other government members that provide us comments

1 that help us land in the right spot related to
2 our rulemakings, we appreciate everyone's
3 involvement in this great process that we have.

4 For this particular group related to
5 liquid pipelines, we have a number of rulemakings
6 that remain in play. Just to let you know, we
7 have, for instance, the hazardous liquid repair
8 criteria, idle pipelines.

9 And then we have one we formerly
10 called a hazardous liquid regulatory reform. Now
11 it's largely focused on spill response plans
12 related to 194, and then other miscellaneous
13 areas of the liquid code itself.

14 And then, of course, we have the topic
15 for today's meeting, unusually sensitive areas.

16 I need to mention, too, that related
17 to another rulemaking on what I didn't just list
18 there, the standards update, what we'll call
19 Standards Update 2, which incorporates by
20 reference newer editions of standards that are
21 out there. We expect a notice to be posted very
22 soon at The Federal Register. We're working with

1 them right now on the final details to make that
2 notice happen.

3 And when the topic of standards comes
4 up, you may be thinking, well, where do we stand
5 with ASME? Because that was a topic at a prior
6 Joint Advisory Committee meeting, where we talked
7 about the incorporation by reference and the
8 availability of ASME standards.

9 And we have worked with them. We're
10 continuing to work with them. We had a meeting
11 scheduled at a high level some months back that
12 was postponed, but we are communicating with
13 them. And I expect in the very near future we
14 will have a meeting where we'll include all the
15 stakeholders that we talked about, including such
16 as public, government, and industry at that
17 meeting.

18 So we're confident we have a solution.
19 They seem to be willing to work with us. So I'm
20 very optimistic about the outcome with our
21 discussions with ASME. So that's kind of a quick
22 status on that.

1 In the interest of time, I will stop
2 there, and I'll turn it back over to Diane. But
3 I just wanted to give you a snapshot of what's
4 going on at the Office of Pipeline Safety.

5 And one more point. I was remiss in
6 mentioning upfront, my boss, our Deputy
7 Administrator, Tristan Brown, certainly sends his
8 regards. You know, he is very interested in the
9 outcome of this meeting today, obviously. We all
10 are. I mean, we're making progress. But I
11 wanted to make sure I passed on his regards to
12 the Committee and the public that's attending
13 today.

14 So with that, Diane, I'll turn it back
15 to you. Thanks.

16 CHAIR BURMAN: Oh, thank you so much,
17 Alan. I do think we have a slide on the agenda.
18 So we might want to just review that right now to
19 level-set us.

20 Okay. So today we're going to be
21 going through this agenda. We will be doing a
22 briefing on pipeline safety unusually sensitive

1 areas for the Great Lakes, coastal beaches, and
2 certain coastal waters, pursuant to the
3 appropriate notice, and pursuant to The Federal
4 Register notice that was issued on this.

5 We will open it up for public comments
6 at the appropriate time. We will also have a
7 Committee discussion of the rulemaking
8 procedures, as well as, then, having some Q&A and
9 discussion.

10 And when appropriate, we will take a
11 Committee vote on the applicability of the
12 definitions and the data sources. And we will
13 then, the Committee will vote on the meeting
14 report as well before we conclude.

15 We'll also have some closing remarks
16 from Alan, as the DFO, and then the Chair,
17 myself, will adjourn the meeting.

18 With that, do we have any questions on
19 the agenda from PHMSA staff or any of the members
20 before we move forward?

21 Hearing none, I will turn it back to
22 Alan, as the DFO. Thank you.

1 MR. MAYBERRY: Next, I will turn it
2 over to Sayler Palabrica.

3 CHAIR BURMAN: Thank you.

4 MR. MAYBERRY: Thank you.

5 MR. PALABRICA: Thank you, Alan.

6 Okay. So I'm going to jump right into
7 the briefing on the Interim Final Rule.

8 So beginning with a timeline. So in
9 June 22nd of 2016, the PIPES Act of 2016 was
10 signed, and Section 19 created the unusually
11 sensitive areas mandate.

12 Then, we held two public meetings, the
13 first in 2017; the second in 2019.

14 Congress subsequently passed the PIPES
15 Act of 2020 on December 27th of 2020. And that
16 created Section 120, which further clarified the
17 definitions in the IFR mandate and set a
18 statutory deadline for the amendments.

19 In December 27, 2021, PHMSA published
20 the Interim Final Rule in The Federal Register.

21 And in February 25th of the following
22 year, the IFR became effective and the comment

1 period ended.

2 In March of 2020, GPA Midstream and
3 the American Petroleum Institute petitioned for a
4 motion to stay the Interim Final Rule pending
5 judicial review.

6 And in April 14th of 2022, PHMSA
7 released a statement issuing a limited stay of
8 enforcement in connection with liquid pipeline
9 facilities that would become subject to
10 regulation as regulated rural gathering lines, or
11 Category 1 or Category 2 rural low stress
12 pipelines, as a result of the amendments codified
13 in the IFR.

14 So Section 19 of the PIPES Act of 2016
15 directed PHMSA to revise Section 195.6 to
16 explicitly state that the Great Lakes, coastal
17 beaches, and marine coastal waters are unusually
18 sensitive areas.

19 This was further clarified in the
20 PIPES Act of 2020, which established statutory
21 definitions for the terms coastal beaches and
22 certain coastal waters, which were previously

1 marine coastal waters in the 2016 Act, and
2 required final regulations within 90 days.

3 So next, we'll discuss the definitions
4 from the Act, as amended by PIPES Act of 2020.

5 So Congress defines certain coastal
6 waters as the territorial sea of the United
7 States, the marine and estuarine waters of the
8 United States up to the head of tidal influence,
9 and the Great Lakes and their connecting waters.

10 And they define coastal beaches as any
11 land between the high- and low-water mark of
12 certain coastal waters.

13 So next, into a summary of the Interim
14 Final Rule itself. Again, the rule was published
15 in December 27th of 2021, and it adopts the PIPES
16 Act of 2020 definitions into 195.6.

17 Additionally, the IFR identified
18 federal GIS data for each of those definitions
19 for inclusion in the National Pipeline Mapping
20 System.

21 Under existing IM regulations, an
22 unusually sensitive area is a high-consequence

1 area, and a pipeline that could affect those
2 areas is subject to integrity management
3 regulations.

4 Additionally, in Part 195, proximity
5 to a USA also affects requirements for regulated
6 rural gathering lines and rural low-stress
7 pipelines.

8 In the RIA, PHMSA estimated that
9 approximately 2900 new HCA miles and 58.5 new
10 regulated rural gathering line miles would be
11 newly affected by this change.

12 So next, I'll get into some background
13 information to understand the effect of the IFR,
14 beginning with a discussion of hazardous liquid
15 integrity management.

16 So IM applies to pipelines that are
17 located in or could affect a high-consequence
18 area, and these are defined in Section 195.450 as
19 commercially navigable waters, high-population
20 areas, other populated areas, or unusually
21 sensitive areas. And the diagram on the right
22 shows the map of commercially navigable waterways

1 in the Great Lakes.

2 So unusually sensitive areas, or USAs,
3 are defined in 195.6. The first is a unusually
4 sensitive drinking water resource, which is a
5 sole-source surface drinking water intake, source
6 water protection area or wellhead protection
7 area, or a Karst aquifer recharge area.

8 And USA ecological resources include
9 areas containing critically imperiled species or
10 ecological communities, multispecies assemblage
11 areas, and migratory waterbird concentration
12 areas.

13 So hazardous liquid pipeline that's
14 located in or could affect an HCA must be
15 included in an integrity management program. And
16 the IM regulations in Part 195 is a risk-based
17 approach to preventing and mitigating liquid
18 pipeline accidents in high-consequence areas.

19 The required elements of an IM plan
20 are listed in 195.452(f), and those include:
21 identifying covered segments; baseline and
22 continuing assessment plans; risk analyses and

1 integrating pipeline data; remediation criteria;
2 identification of preventative and mitigative
3 measures; program performance metrics, and
4 process used for analyzing integrity assessment
5 results and qualifying analyses.

6 So next, we'll get into some
7 background information on regulated rural
8 gathering lines and rural low-stress lines.

9 So the requirements for regulated
10 rural gathering lines for liquid pipelines are
11 defined in 195.11. A liquid gathering line
12 within a quarter mile of a new USA could become
13 regulated if it has a nominal diameter from 6-5/8
14 inches to 8-5/8 inches, and if the maximum
15 operating pressure is greater than 20 percent of
16 the specified minimum yield strength. Or, for
17 non-steel pipe or for pipe where the stress level
18 is unknown, if the MOP is greater than 125 psi.

19 Note that, in Part 195, rural
20 gathering lines less than 6-5/8 inches are not
21 regulated, and liquid pipelines larger than 8-5/8
22 inches are not defined as gathering lines in Part

1 195.

2 So a regulated rural gathering line
3 must comply with certain requirements listed in
4 195.11(b), and these include, for new and
5 replaced pipelines, design, installation,
6 construction, initial inspection, and initial
7 testing requirements; reporting requirements and
8 non-steel pipe notifications; establishing MOP;
9 installing and maintaining line markers; carrying
10 out a continuing education program; carrying out
11 a damage prevention program; complying with
12 corrosion control requirements, including
13 internal corrosion; and operator qualification
14 requirements.

15 And the compliance deadline under
16 existing requirements in 195.11 is six months
17 from the date that a USA is identified.

18 So the next category is rural low-
19 stress lines, and the requirements for these
20 facilities is in 195.12.

21 So a rural low-stress line is a
22 pipeline in a rural area that has a MOP of 20

1 percent or less of SMYS or 125 psi or less, if
2 the stress level is unknown.

3 And there are three categories of
4 these, based on the proximity to a USA and the
5 diameter of the pipeline.

6 So a Category 1 rural low-stress line
7 is one with a diameter of 8-5/8 inches or greater
8 and is located within half a mile of a USA.

9 A Category 2 rural low-stress line has
10 a diameter less than 8-5/8 inches and is located
11 within one-half of a USA.

12 And a Category 3 is a rural low-stress
13 line that is not within a half a mile of a USA.

14 Category 3 pipelines are not required
15 to comply with integrity management. However, a
16 Category 3 pipeline that becomes a Category 1 or
17 a Category 2 rural low-stress line must begin
18 complying with integrity management within 12
19 months.

20 So next, we'll describe the National
21 Pipeline Mapping System. The National Pipeline
22 Mapping System, or NPMS, is maintained by PHMSA.

1 It includes a repository of pipeline geospatial
2 data, including the location of pipelines and
3 certain attributes about those lines; operator
4 contact information, and the location of
5 hazardous liquid pipeline HCAs.

6 Operators must update their data
7 annually, and except for proprietary or security-
8 sensitive information, PHMSA is obligated to
9 maintain maps of HCAs.

10 So regarding the data used to map the
11 new coastal USAs in the NPMS, again, we held
12 public meetings in 2017 and 2019 on selection of
13 data and definitions to meet the original PIPES
14 Act mandate from the 2016 Act, and that was in
15 November of 2017 and June of 2019.

16 We, subsequently, updated the NPMS to
17 include the Great Lakes USA in October of 2019,
18 and that's based on data from the NOAA State
19 Submerged Lands Dataset.

20 So next, we'll get into a summary of
21 the requirements of the IFR and its
22 implementation.

1 So, again, the IFR identified new USAs
2 in 195.6 and adopts their statutory definitions
3 from the PIPES Act of 2020.

4 Any liquid pipeline that is located in
5 or could affect the new USAs must be included in
6 an IM plan. And the deadline for these
7 requirements, under existing IM requirements in
8 Part 195, is that operators must add segments
9 that could affect the new HCAs to a baseline
10 assessment plan within one year of the date that
11 the HCA is identified. And the first baseline
12 assessments must be performed within five years
13 of that same date. And then periodic assessments
14 are required every five years thereafter.

15 For regulated rural gathering lines,
16 a liquid gathering line that's within a quarter
17 mile of the newly-identified USAs could become
18 regulated if it meets the diameter and operating
19 pressure criteria described earlier. And they
20 must begin complying with the requirements in
21 195.11(b).

22 For rural low-stress pipelines, if a

1 Category 3 rural low-stress pipeline becomes a
2 Category 1 or a Category 2 rural low-stress
3 pipeline due to proximity to a new USA, they must
4 begin complying with the IM requirements within
5 12 months of the date that the USA is identified.

6 So to implement these new definitions
7 into the NPMS, the IFR identified geospatial data
8 to map the new USA categories. Again, we already
9 mapped the Great Lakes and their connecting
10 waters using NOAA data in October of 2019, and
11 the remaining new USAs are mapped using a
12 combination of data from the NOAA Clean Water Act
13 data; the NOAA Sea Level Rise Viewer,
14 specifically, the zero sea level rise layer to
15 represent the Mean Higher High Water, and the
16 EPA's Estuary Data Mapper.

17 So this slide is just repeating the
18 PIPES Act's definitions of certain coastal waters
19 and coastal beaches. Again, certain coastal
20 waters represents the territorial sea of the
21 United States; marine and estuarine waters up to
22 the head of tide, and the Great Lakes and their

1 connecting waters.

2 And coastal beaches is any land
3 between the high- and low-water mark of certain
4 coastal waters.

5 In order to map those definitions with
6 the data, the NOAA Clean Water Act data we used
7 primarily to map the territorial sea from the
8 high water line to the 12-nautical-mile limit of
9 the U.S. territorial sea, in accordance with
10 Presidential Proclamation 5928. And this data is
11 based on the NOAA Medium Resolution Shoreline and
12 NOAA nautical charts, and represents a definitive
13 map of U.S. maritime boundaries.

14 The NOAA Sea Level Rise Viewer, again,
15 the zero sea level rise data layer, representing
16 the Mean Higher High Water line, is used to
17 represent the high water line in the definition
18 of a coastal beach.

19 And the EPA's Estuary Data Mapper is
20 the most complete national inventory of estuarine
21 waters and is used to represent estuarine waters
22 up to the head of tidal influence.

1 PHMSA strongly believes that
2 aggregating these datasets or combining these
3 datasets from expert scientific federal agencies
4 represents the best available national data on
5 the location of certain coastal waters and
6 coastal beaches, as those terms were defined by
7 Congress.

8 And the combination of these three
9 datasets is the best available solution, given
10 that each of these is prepared and published by
11 expert agencies within the federal government,
12 and that datasets are available to the public for
13 download and review.

14 So the next two slides illustrate how
15 we combined the data from the three datasets to
16 create the combined USA definition of coastal
17 beaches and certain coastal waters. Some of
18 these are combined into one layer included in the
19 NPMS, although, again, each of the individual
20 datasets is available for download and review
21 from their respective agencies.

22 Once again, to a brief discussion of

1 the impacted mileage and RIA impacts. So based
2 on an analysis of PHMSA NPMS data, we estimated
3 that approximately 2900 miles of pipeline will be
4 newly-impacted by the rule. This does not
5 include the Great Lakes portion, as a self-
6 executing mandate of the 2016 Act. And this
7 represents pipelines that we estimate could
8 affect the new USAs, but could affect any of the
9 existing HCA definitions.

10 So by cross-referencing the NPMS data
11 with PHMSA Annual Reports, we determined that, of
12 the 2900 estimated newly-impacted could-affect
13 HCA miles, 95 percent of the affected operators
14 already had HCA miles, and therefore, an IM plan.
15 And 99 percent of the affected mileage was
16 operated by an operator with other HCA miles.

17 For regulated rural gathering, we
18 estimate that there are approximately 58.5 new
19 regulated rural gathering lines. And that's
20 based on applying the percentage increase in USA
21 miles total to the existing mileage of regulated
22 rural gathering lines.

1 PHMSA estimates that there is
2 unquantified safety and environmental benefit
3 from preventing and mitigating releases from the
4 good pipelines in coastal areas and coastal
5 waters. And we estimated that there's 4 million
6 in annualized cost at a 7 percent discount rate.
7 The largest cost category is for the baseline
8 integrity assessments and periodic reassessments.
9 And other costs include preparing or updating IM
10 plans, integrating pipeline data, and compliance
11 costs for regulated rural gathering lines.

12 So PHMSA received four comment
13 submissions from the IFR, including: one comment
14 from the Alaska Department of Natural Resources;
15 a joint industry comment from API, GPA Midstream,
16 and the Association of Oil Pipe Lines, and two
17 comments from individual citizens.

18 So in the next section, we'll go into
19 public comments on the rulemaking procedures.

20 MR. VINOT: So if you go to the
21 meeting invite where it says Click here, that
22 thing doesn't work.

1 CHAIR BURMAN: Somebody needs to mute
2 themselves. This is the Chair.

3 MR. VINOT: It takes you, yes, to the
4 PHMSA website, and then there's another --

5 CHAIR BURMAN: Could someone from
6 PHMSA staff mute whoever is talking?

7 MR. PALABRICA: Okay. I just muted
8 all. If you need to speak, just unmute again. I
9 apologize.

10 So the next section is on the
11 rulemaking procedures and the summary of
12 comments.

13 So API, GPA, and AOPL commented in the
14 joint industry comment that PHMSA did not meet
15 the requirements to use the good-cause exception
16 to the Administrative Procedure Act to publish
17 the IFR without prior notice and comment or
18 meeting with the LPAC. And the Alaska Department
19 of Natural Resources also expressed concern about
20 the IFR process under the good-cause exception.

21 So PHMSA's response is that, in the
22 IFR, we reasoned that the notice and comment

1 process was unnecessary because one, Congress, in
2 the PIPES Act of 2020, provided clear, defined
3 terms and required PHMSA to update its
4 regulations to incorporate those terms. And the
5 definitions of the terms that Congress required
6 PHMSA to include in its regulations are further
7 specifically defined by other expert federal
8 agencies. And that's in the IFR.

9 PHMSA also reasoned that the good-
10 cause exception applied because Congress demanded
11 PHMSA complete the regulatory amendments within
12 90 days of enactment. And again, this is
13 described within the preamble to the IFR.

14 Additionally, in response to the
15 comments and petition for judicial review, PHMSA
16 issued a stay of enforcement to the IFR with
17 respect to its applicability to the regulation of
18 regulated rural gathering lines and rural low-
19 stress pipeline systems and decided to hold this
20 LPAC meeting.

21 And PHMSA will consider the comments
22 submitted on the IFR and the report of the LPAC

1 in the Final Rule, development of the Final Rule.

2 So the next comment, the joint
3 industry comment commented that the RIA did not
4 take into consideration rural gathering and rural
5 low-stress pipelines that could be impacted by
6 these updates.

7 And our response is that we
8 acknowledge the effect of the scope of regulated
9 rural gathering and rural low-stress pipelines in
10 the IFR and in the RIA.

11 Additionally, rural low-stress
12 pipelines become subject to IM, newly-impacts
13 ones, which is within the scope of the mandate
14 and is described in the RIA analysis.

15 Finally, the applicability of the USA
16 definition to regulated rural gathering lines and
17 rural low-stress pipelines is currently under a
18 stay of enforcement and in this discussion and
19 the publication of any Final Rule.

20 So this concludes PHMSA's briefing on
21 the background and on the rulemaking procedures,
22 and we invite Committee and public discussion on

1 this topic, this non-voting topic.

2 CHAIR BURMAN: So thank you very much.

3 I appreciate that.

4 This is Chair Diane Burman from the
5 New York State Public Service Commission.

6 I just want to, first, thank you for
7 that briefing. And before we turn it over and
8 open it up for public comments and Committee
9 discussion, I just want to do a quick, for level
10 setting, sort of summary of what we heard.

11 We heard about eight different things
12 throughout this. The first was the timeline.
13 The second is the PIPES Act mandates with
14 definitions. The third is integrity management
15 which included within that high-consequence area,
16 existing unusually sensitive areas. The fourth
17 is regulated gathering, which is under our
18 regulations 195.11, and rural low-stress, 195.2.

19 The fifth is National Pipeline Mapping
20 System, which took into account, also, coastal
21 USAs data. The sixth is a summary of the IFR
22 requirements, amendments, and implementations.

1 That also included datasets. The seventh was
2 impacted mileage and data including cost-benefits
3 and a summary of comments.

4 The eighth was rulemaking procedures
5 with party comments, which included good-cause
6 exception, and then the action that PHMSA took,
7 the stay of enforcement by PHMSA to, then, have
8 this LPAC meeting. And also the last part of
9 that was the Regulatory Impact Analysis with
10 comments as well.

11 Before we move into public comments,
12 and then Committee discussion and Q&A, I want to
13 turn to our DFO, Alan Mayberry, to see if he has
14 any comments or clarifying points at this time.

15 MR. MAYBERRY: No, Commissioner
16 Burman, other than holding this meeting, we did
17 want to have a forum to consider the comments,
18 for the Committee to hear the comments and have
19 deliberations, and then provide a recommendation
20 to us. So we look forward to that. So thank
21 you.

22 CHAIR BURMAN: Great. Thank you so

1 much. Does anyone have any questions or concerns
2 before we move into the public comments? This is
3 just a level-setting perspective of what we're
4 doing, not necessarily substantive. We'll get
5 into the public comments, and then Committee
6 discussion and Q&A. Folks will have an
7 opportunity for their comments related to the
8 topics substantively as well as procedurally.

9 Hearing none, we'll move into the
10 public comments.

11 I don't know if there's someone from
12 PHMSA who wants to be in charge of helping with
13 any of the attendees. I can't see, other than
14 the Committee members, who might be raising their
15 hand.

16 MR. GALE: Hi, Diane. Yes, this is
17 John Gale. Sorry, this is John Gale with PHMSA.
18 I'll help you with that, Diane.

19 CHAIR BURMAN: Great. Thank you.

20 MR. GALE: And just to be clear, for
21 the public right now, if you do want to make a
22 statement, if you could just raise your hand in

1 the reaction section. Just click on it. Click
2 the Raise your Hand, and we'll call on those
3 folks in order.

4 And just to be clear as well, what
5 we're looking for right now is for those comments
6 and public statements regarding the procedures.
7 Following this discussion, we'll, then, get into
8 an additional discussion on the definitions
9 themselves and the NPMS mapping, et cetera, in a
10 later discussion. But, right now, we're just
11 looking for comments on the rulemaking
12 procedures.

13 With that being said, I see we do have
14 one hand up, Chairwoman Burman, Mr. Matthew Hite.

15 Mr. Hite, if you'd like to make your
16 statement, go ahead, sir. I see you're already
17 unmuted.

18 MR. HITE: Thanks, John. Can you hear
19 me okay?

20 MR. GALE: Hear you great, Matt, yes.

21 MR. HITE: Okay. Thanks. Good
22 morning. My name is Matt Hite. I'm Vice

1 President of Government Affairs for GPA Midstream
2 Association. I would like to provide the LPAC
3 with the following comments on PHMSA's Interim
4 Final Rule for coastal USAs.

5 First, GPA Midstream does not agree
6 that PHMSA had the authority to issue the Interim
7 Final Rule with providing interested stakeholders
8 with prior notice or the opportunity to comment.
9 The good-cause exception in the Administrative
10 Procedures Act is narrowly construed, and none of
11 the reasons offered by PHMSA shows that the good
12 cause exists here.

13 The changes to the USA requirements
14 are not necessary to address an imminent hazard
15 or threat, and the provisions in Section 120 of
16 the 2020 PIPES Act did not render notice and
17 comment impracticable, nor are the new USA
18 requirements, which affect more than 2900 miles
19 of hazardous liquid and carbon dioxide pipelines,
20 according to PHMSA's own estimates, something
21 that can be characterized as minor or
22 inconsequential.

1 PHMSA had an obligation to provide
2 interested stakeholders with prior notice and the
3 opportunity to comment before issuing an Interim
4 Final Rule with the force and effect of law.
5 PHMSA failed to meet that obligation in this
6 case, and in so doing, deprived GPA Midstream
7 members of the basic procedural protections
8 afforded to pipeline operators under the
9 Administrative Procedures Act and Pipeline Safety
10 Act.

11 Second, GPA Midstream does not agree
12 that Section 120 provides PHMSA with the
13 authority to apply the new USA requirements to
14 gathering lines or rural low-stress lines.
15 Congress only directed PHMSA to revise the USA
16 requirements for purposes of determining whether
17 a pipeline is in a high-consequence area.
18 Nothing in Section 120 directs PHMSA to change
19 the USA requirements for any other purpose, let
20 alone to do so without providing interested
21 stakeholders with prior notice or the opportunity
22 to comment.

1 And finally, I would just like to note
2 that PHMSA relies on outdated data in analyzing
3 the impact of the Interim Final Rule on rural
4 gathering lines. They're using an IPAA study
5 from 2006 that is now more than 15 years old, and
6 which is not in the record, and may not -- we're
7 trying to still find it, if it is in the record.
8 But its existence is still right now
9 questionable.

10 And with that, I want to thank you for
11 letting me make a statement.

12 CHAIR BURMAN: Thank you so much, Mr.
13 Hite. And I'm going to turn it back to John.
14 Thanks.

15 MR. GALE: Thank you, Ms. Burman.

16 John Gale again, PHMSA. Thank you,
17 Matt. And with being said, Matt, if you could do
18 me a favor and lower your hand, I'd appreciate
19 that.

20 And then, with Matt finishing up,
21 we'll turn it over to Mr. Murk, Dave Murk.

22 MR. MURK: Good morning. Thanks,

1 John, and thanks, Chair Burman, for the
2 opportunity to speak today. And I appreciate
3 PHMSA holding the LPAC meeting.

4 As John mentioned, my name is Dave
5 Murk. I'm the Director of Pipelines for
6 Midstream at the American Petroleum Institute.

7 And I wanted to also provide the LPAC
8 with some comments on PHMSA's Interim Final Rule
9 for coastal USAs.

10 First, API supports the statement that
11 Matt just made from GPA Midstream. Like GPA, API
12 does not agree that PHMSA had the authority to
13 issue the Interim Final Rule, in particular,
14 without providing interested stakeholders with
15 prior notice or the opportunity to comment.

16 API also does not agree that Section
17 120 of the 2020 PIPES Act provides PHMSA with the
18 authority to apply the new USA requirements to
19 gathering lines or rural low-stress lines, or
20 that the information in the record otherwise
21 supports that action.

22 Second, API doesn't agree that Section

1 120 compels PHMSA for the use of the definitions
2 and databases referenced in the Interim Final
3 Rule. We understand, API understands that a 3-
4 nautical-mile limit is used in determining the
5 extent of territorial sea under certain federal
6 laws and regulations, and requests that PHMSA
7 consider whether using that limit to implement
8 the rulemaking mandate in Section 120 is more
9 appropriate than a 12-nautical-mile limit.

10 API is also concerned with PHMSA's
11 decision to use databases and definitions
12 administered by NOAA and the EPA in delineating
13 the extent of marine waters and estuarine waters.
14 At the very least, API believes that PHMSA should
15 conduct further analysis to support the use of
16 these definitions and databases and consider
17 whether additional limitations or modifications
18 may be necessary to meet the requirements in
19 Section 120.

20 Additionally, with species-based ECO
21 USA state and offshore datasets expiring in 2021
22 and no longer supported by PHMSA, API supports

1 pipeline operators using local knowledge and data
2 for their HCA could-affect analysis in lieu of
3 the expired ECO USA datasets.

4 And finally, API notes that it
5 submitted a detailed economic analysis for
6 gathering lines to PHMSA as part of the recently
7 completed rulemaking procedure for onshore gas
8 gathering lines, but an economic analysis was
9 prepared by ICF International and contains data
10 that is more recent and comprehensive than any
11 data that may have been provided by IPAA more
12 than 15 years ago. PHMSA should consider the
13 data provided in the ICF economic analysis, which
14 I believe dates back to 2016, as well as any
15 relevant data that may be available from PHMSA's
16 State Pipeline Safety Program partners in Texas,
17 Louisiana, or any other affected jurisdictions,
18 including Alaska.

19 As GPA Midstream stated in its earlier
20 comments, PHMSA cannot prepare an adequate risk
21 assessment or make a reasoned cost-benefit
22 determination in the rulemaking proceedings by

1 relying on data that's more than 15 years old,
2 and which is not in the record, and may not
3 otherwise exist.

4 So, again, I appreciate the
5 opportunity to provide a statement from the API
6 perspective and its member companies. Thanks.

7 CHAIR BURMAN: Thank you. John?

8 MR. GALE: Thank you, Ms. Burman.

9 Is there anybody else in the public
10 that would like to make a comment or statement
11 for the record?

12 Chairperson Burman, I do not see any
13 other hands from the public. And so, therefore,
14 I would recommend, Sayler, if you could go ahead
15 and advance the slide? And we can move on to an
16 LPAC discussion.

17 I didn't know if you wanted to raise
18 the issue of how we were trying to handle this
19 specific topic. Again, in the later discussion
20 after -- this is just about the procedure,
21 specifically, the IFR and the good cause. We're
22 going to get, after this discussion, into the

1 issue of the definitions, into the issue of the
2 NPMS datasets following this discussion.

3 But it was not a recommendation of
4 PHMSA at all to look for any kind of vote on this
5 issue, like we've done in the past. But we are,
6 obviously, providing an opportunity for people to
7 make their concerns and express their concerns on
8 this issue on the record.

9 CHAIR BURMAN: Thank you. This is
10 Diane Burman, Chair of LPAC for today, and with
11 the New York State Public Service Commission.

12 I thank you for that clarification.
13 I also thank the public for their comments that
14 have come in as well as today.

15 I think it's important that you made
16 clear that we are not voting on the good-cause
17 exception at this time, and this right now, we
18 are going to be taking questions or comments and
19 discussion on the procedures, and good cause I
20 believe, but not for a vote.

21 I want to turn this over, before we
22 get into the LPAC discussion itself, but I do see

1 a number of hands raised, to our DFO, Alan
2 Mayberry, if he wants to make some further
3 clarification or some comments at this time.

4 MR. MAYBERRY: Yes, and the only
5 comment I have relates to the good cause. You
6 know, we don't make these decisions lightly, and
7 obviously, there's a significant amount of
8 vetting that takes place. As many involved in
9 the process will know, from within our own
10 organization to the Office of the Secretary, to
11 the White House, and OMB, you know, these
12 decisions aren't made lightly.

13 And the Administrative Procedures Act
14 certainly has safeguards to ensure, such as in
15 this case, the ability to provide comments on the
16 IFR in this case. And then, of course, we're
17 going to the step of having this Advisory
18 Committee meeting, which we're really interested
19 in getting the advice of this body on how we
20 should move forward. So thank you. Back to you.

21 CHAIR BURMAN: Great. Thank you.

22 I'm now going to turn it back to, I

1 believe, John, to help with the Committee members
2 who have their hands raised.

3 MR. GALE: Thank you, Ms. Burman.

4 With that said, I'll turn it over to
5 Member Bacon to make his statement. Graham?

6 MEMBER BACON: Yes, thank you, Mr.
7 Gale. This is Graham Bacon, industry
8 representative on the LPAC.

9 And, Mr. Mayberry, thank you very much
10 for your comments and perspective on the
11 Administrative Procedures Act and how you viewed
12 it.

13 But I think, as a member of the LPAC,
14 I have great concern about the process that took
15 place without the opportunity for the LPAC to
16 weigh in on a proposed rulemaking before the
17 Interim Final Rule was issued. I think the LPAC
18 has been able to offer a lot of very broad
19 perspective on proposed regulations from industry
20 to the public. And I'm concerned about the
21 precedent that this sets in terms of the Interim
22 Final Rule being set without public comment and

1 the ability for this body to weigh in on proposed
2 regulations.

3 And I'd just like to get your
4 perspective. It didn't seem like this was needed
5 in this case; that there was nothing from an
6 emergency standpoint. And this certainly seemed
7 to go well beyond minor technical issues.

8 So I would appreciate -- I don't know
9 -- maybe a little bit of your view of -- it
10 seemed to be, from my perspective, a change in
11 direction in terms of a rulemaking, to try to
12 push something through a lot quicker than it
13 maybe needed to be. Thank you for the
14 opportunity.

15 CHAIR BURMAN: Thank you. This is the
16 Chair Burman, New York State Public Service
17 Commission.

18 I wonder, Alan, if you want to wait
19 until after others speak on this topic before we
20 turn it back to you for comment, if you choose
21 to.

22 MR. MAYBERRY: Certainly.

1 CHAIR BURMAN: It's your call, one way
2 or the other.

3 MR. MAYBERRY: Yes, let's do that.
4 Thank you.

5 CHAIR BURMAN: Okay. Great. Thank
6 you. John?

7 MR. GALE: Yes. Thank you,
8 Chairperson. With that being said, I'll turn it
9 over to Mr. Todd Denton.

10 Todd, if you could unmute yourself and
11 make your statement, sir?

12 MEMBER DENTON: Okay. Thank you,
13 John. Todd Denton, representing the industry,
14 and I'll add onto the comments thus far.

15 I think, first of all, thank you for
16 having this meeting. I think it is at least
17 important to have the discussion, even though, as
18 has been pointed out, probably later than we
19 would have liked.

20 And I will reference the industry
21 comments that have been submitted; that we
22 appreciate taking those into consideration as you

1 think about the Final Rule.

2 And again, my comment is not so much
3 about the rule itself, but the process. And I
4 think, you know, without the public and
5 stakeholder notice or opportunity to comment,
6 it's a lost opportunity, particularly since the
7 mandate was first issued in 2016. I realize a
8 hard deadline was put in place in 2020, but this
9 Committee is very engaged in getting rules to the
10 right place, and we all have the same goal:
11 first and foremost, to drive pipeline safety
12 improvements. And I think we have a strong track
13 record of doing that.

14 So I appreciate the opportunity to
15 comment, and again, to have the meeting. And it
16 just feels a little bit like we have something of
17 a missed opportunity on this one to perhaps make
18 it even better. Thanks.

19 CHAIR BURMAN: Thank you. I turn it
20 back to John for other people.

21 MR. GALE: Thank you, Ms. Burman.

22 With that being said, I will now open

1 the mic to Bill Caram of Pipeline Safety Trust.

2 Bill, you could unmute yourself?

3 MEMBER CARAM: Thanks, John. And
4 thanks, Chairperson Burman.

5 Just sharing the public perspective,
6 you know, in our view, the recent congressional
7 mandate on the PIPES Act of 2020 was very clear
8 with a hard deadline, and I think PHMSA was put
9 in a difficult situation and made the best
10 decision in order to meet that congressional
11 mandate.

12 Over the past six years, we've had two
13 congressional mandates, two public meetings, you
14 know, an IRF comment period, and holding the LPAC
15 meeting today. To us, that is plenty of
16 opportunity for input, given the very narrow
17 statutory mandate in the recent PIPES Act with
18 that hard deadline.

19 Thank you for the opportunity to
20 comment.

21 CHAIR BURMAN: Okay. Thank you so
22 much. John?

1 MR. GALE: Yes, Ms. Burman. With that
2 being said, thank you, Bill. I will now turn it
3 over to Mr. Dave Barnett. Dave, if you could
4 unmute yourself and make your statement, sir?

5 MEMBER BARNETT: Yes, thank you. Yes,
6 I'm Dave Barnett, representing the public.

7 I'd like to tie onto a little bit of
8 what Bill said. This is very different, in my
9 view. This is a congressional mandate to protect
10 these waters and these shorelines, and I think
11 PHMSA has done the right thing in moving forward
12 the way they've moved.

13 PHMSA has often been caught in the
14 middle between Congress accusing them of not
15 acting fast enough, as we've seen in the past,
16 and I think that they're doing the right thing
17 under this congressional mandate to move forward,
18 noting that, yes, LPAC has done some fantastic
19 work in the past, as I believe Graham is the one
20 that stated that, and I agree. But keeping in
21 mind that LPAC is an advisory committee, and
22 PHMSA acts as an arm of the Department of

1 Transportation in protecting the public and the
2 environment as their No. 1 priority.

3 And these pipelines, not knowing
4 through integrity management programs that are
5 out there existing -- we've seen just in recent
6 years the damage to these shorelines and the
7 environment. I just PHMSA has done the right
8 thing here in moving forward the way they have.

9 Thank you.

10 CHAIR BURMAN: Thank you so much. I
11 appreciate that. And seeing no hands raised --
12 we want to make sure folks have an opportunity on
13 the Committee if they want to make any comments
14 before we turn it over, back to Alan.

15 Okay. So before we turn it over to
16 Alan, this is Diane Burman, Chair for today of
17 LPAC, as well as with the New York State Public
18 Service Commission.

19 I personally appreciate everyone's
20 comments, and really focused right now on sort of
21 the process and perhaps some learning lessons in
22 terms of how to deal with the delicate issue of

1 needing to be responsive to the mandates, but
2 also to utilizing the critical voice of the LPAC
3 in how it's traditionally been, and how do we
4 find that right balance?

5 I do appreciate PHMSA, recognizing
6 that there was concern, also taking time -- to
7 the stay of enforcement -- to have this LPAC
8 meeting. Just in terms of going forward, all of
9 us, of course, have a shared goal of advancing
10 pipeline safety, and to do that, we do need to be
11 able to collaborate and share collectively. And
12 LPAC, as well as others, have had a role in
13 helping to facilitate that, not only just from an
14 advisory committee, but, really, as part of our
15 own mandate statutorily in providing support to
16 the U.S. Department of Transportation and the
17 Secretary itself.

18 So turning it now over to Alan. Thank
19 you.

20 MR. MAYBERRY: Thank you, Diane. You
21 know, I have a high degree of respect for all of
22 the commenters today, and, of course, of the

1 Committee, and, you know, very much appreciate
2 the perspective and the comments we received on
3 the docket.

4 We feel that the record, as far as the
5 justification, speaks for itself. So that's
6 really where we are there.

7 And we have a long history of working
8 with stakeholders, of seeking input. It's just
9 the way we operate, and the reason we're holding
10 this meeting today is to receive comments and, of
11 course, recommendations from the Committee that
12 help us move forward.

13 You know, our focus has been
14 mentioned, and I appreciate it. We're on the
15 same page as far as the need to protect the
16 environment, the need to protect safety. And
17 that's what we're all about, and we have a lot of
18 areas of policymaking before us that we're
19 working through.

20 So aside from the justification we
21 used for good cause, I would certainly hope
22 there's an appreciation for the good government

1 aspect of efficiency for the IFR and for a way,
2 you know, of receiving comments afterwards, and
3 then conducting this forum to receive a
4 recommendation on how we go forward.

5 But we're all about protecting the
6 environment. We need to get this rule finalized,
7 and I know you share -- and safety, pardon me --
8 and I know you share that concern.

9 So we appreciate the comments, again,
10 and they are on the record. And so, again,
11 that's why we're here today, is just to listen to
12 those and then also receive the recommendation of
13 the Committee.

14 So with that, I'll turn it back over
15 to you, Diane. Thank you.

16 CHAIR BURMAN: Thank you so much.
17 Before we move on to the next aspect, I want to
18 make sure that the Committee members, there isn't
19 anyone else who wants to comment or raise a
20 question. I do think there's someone in the -- I
21 can't see who has their hand raised.

22 MR. GALE: It's Member Bacon, Ms.

1 Burman. It's Member Bacon.

2 CHAIR BURMAN: Oh, great. Thank you.
3 Mr. Bacon? And again, just a reminder, please
4 state your name for the record and who you're
5 with. Thank you.

6 MEMBER BACON: This is Graham Bacon,
7 industry representative.

8 I just wanted to make a follow-up.
9 And I may not have all the information needed on
10 this. But is the effective date for compliance
11 on the rule, is it going to be from Interim Final
12 Rule or the Final Rule?

13 I think from a perspective of still
14 going out and receiving comments and receiving
15 input, having that effective date be from the
16 Final Rule I think really kind of allows this
17 process to work, where there has been comments
18 that have had the opportunity to weigh in, and
19 then compliance be from the Final Rule. It seems
20 that it at least feels a little bit better, that
21 it fits in where the members of this Committee
22 and the public have been able to comment on that.

1 That concludes my remarks.

2 CHAIR BURMAN: Thank you so much. I
3 want to turn it over to PHMSA, John Gale.

4 MR. GALE: Thank you, Ms. Burman.

5 Member Bacon, can you clarify? Are
6 you talking about, specifically, with regard to
7 the gathering and the low-stress issue or are you
8 talking about the rule in general?

9 MEMBER BACON: I'm speaking of the
10 rule. I'm speaking of the rule in general.

11 MR. GALE: Okay. Okay. Because the
12 one thing I wanted to clarify, you know, as
13 Sayler mentioned in his -- again, this is John
14 Gale with PHMSA -- as Sayler mentioned in his
15 presentation, regarding the gathering lines and
16 the low-stress lines, and how it impacts those,
17 we have this enforcement out there right now,
18 right?

19 MEMBER BACON: Correct.

20 MR. GALE: And so how that plays into
21 it has to be part of that process. But, right
22 now, there is a stay of enforcement out there

1 with regard to that.

2 And the rest of the rule -- correct me
3 if I'm wrong, Mr. Palabrica -- but the rest of
4 the rule is currently in effect, right?

5 MR. PALABRICA: That's correct, yes.

6 MR. GALE: Yes, those are just
7 statements of fact for the record.

8 So for the rest of that, Member Bacon,
9 if we could, if we could continue that dialog
10 maybe in the next section? And obviously, you
11 know, this is the Committee's meeting. This is
12 the Committee's report. So if there's any
13 recommendation by the Committee, you know, we can
14 have that discussion in the next section, if we
15 could.

16 MEMBER BACON: Okay. Okay. Thank
17 you. Certainly, my statements would reflect my
18 recommendation, but we'll defer to the next
19 segment. Thank you.

20 MR. GALE: Understood, yes. Yes, very
21 good. Yes. Back to you, Ms. Burman.

22 CHAIR BURMAN: Thank you so much. I

1 think we're done with this section. I don't see
2 any other hand raised.

3 John, if you can just lower your hand
4 at the moment?

5 Seeing no other hands raised from the
6 Committee, I'm now going to go to the next
7 session and turn it back to PHMSA to help us open
8 that up.

9 MR. PALABRICA: Thank you, Diane.
10 Again, this is Sayler Palabrica with the Office
11 of Pipeline Safety.

12 So the next topic of discussion -- and
13 there will be a Committee vote and discussion on
14 this -- is the applicability, definitions, and
15 data sources referenced within the IFR.

16 And again, if you have recommendations
17 with regard to the previous topic, we can bring
18 that up in the vote as well.

19 CHAIR BURMAN: Okay. With that, I
20 want to open it up now. This is Chair Burman. I
21 want to open it up for any comments/questions at
22 this time from the Committee members.

1 If you could raise your hand if you
2 have any comments?

3 Okay. I see no hands raised up.
4 Actually, Mr. Bacon?

5 I see Mr. Bacon. And then, after, I
6 see Mr. Wolfgram.

7 MEMBER BACON: I'm sorry, I was on
8 mute. Again, Graham Bacon, industry
9 representative.

10 Just to echo comments that were made
11 by some of the (audio interference) using that,
12 extending that beyond what the congressional
13 mandate to define HCAs, to expand the definition
14 of rural gathering lines. That's really the
15 extent of my remarks, is just to reflect that,
16 when there's a congressional mandate, it should
17 recommend that the regulations be limited to that
18 and not used to expand jurisdiction of other
19 types of pipeline assets.

20 And that concludes my comments.

21 CHAIR BURMAN: Thank you. Before we
22 move to Mr. Wolfgram, does PHMSA have any

1 comments on this, or do you want to wait until
2 after others speak?

3 MR. PALABRICA: Oh, just that we still
4 have the discussion of the comments and the
5 response, but, again, that's up to you.

6 Diane, I think you're --

7 CHAIR BURMAN: Oh, I was going to say,
8 if we can, maybe we'll just wait for folks, and
9 we'll do what you suggested in terms of
10 presenting the comments.

11 MR. PALABRICA: That sounds good,
12 Diane.

13 CHAIR BURMAN: Great. Thanks. Sorry.

14 MR. PALABRICA: Rob, did you have a
15 comment?

16 Great. So to resume on this topic,
17 the joint industry comment with regard to the
18 applicability to rural low-stress pipelines and
19 regulated rural gathering lines, the joint
20 industry comment commented that the mandate to
21 update the USA definition was intended only to
22 apply to the applicability of integrity

1 management regulation.

2 And that the location of a USA is also
3 used in 195 to determine if rural gathering lines
4 are regulated and the category of rural low-
5 stress pipelines, but that this was not the
6 intent of the Section 120 mandate.

7 And they argue that the impacts to
8 gathering lines have unintended consequences and
9 should not be completed without the appropriate
10 rulemaking procedures.

11 So PHMSA's response. So, again, we
12 issued a limited stay of enforcement for the
13 applicability of the IFR with respect to rural
14 low-stress pipelines and regulated rural
15 gathering lines. And PHMSA will consider the
16 public comments and the proceedings and report of
17 the LPAC in the development of the Final Rule.

18 For regulated rural gathering lines,
19 there's minimal impact on cost in mileage.
20 Compared to 5,000 total regulated rural gathering
21 line miles regulated currently, only an
22 additional estimate of approximately 50 miles are

1 impacted.

2 For rural low-stress pipelines,
3 proximity to an unusually sensitive area only
4 affects whether a rural low-stress pipeline must
5 comply with IM, and IM impacts are within the
6 scope and intent of the congressional mandate.

7 And these changes reduce hazardous
8 liquids spill risks in coastal areas vulnerable
9 to the consequences of oil spills and other
10 hazardous liquid releases, and therefore, PHMSA
11 recommends no exclusion for regulated rural
12 gathering lines or rural low-stress lines in the
13 Final Rule.

14 Rob, did you have your hand up?

15 MR. ROSS: Yes. Thanks, Saylor.

16 So my name is Robert Ross. I'm the
17 Assistant Chief Counsel for Reg Affairs in the
18 Chief Counsel's Office here at PHMSA.

19 We have the benefit of, I guess,
20 multiple rounds of joint industry comments. And
21 I would appreciate it, you know, like if some of
22 the members of the industry could elaborate on

1 their characterization of the statutory mandate
2 within PIPES 2020.

3 I've heard it characterized a couple
4 of times that the statutory mandate that PHMSA is
5 implementing this rulemaking was limited to
6 integrity management requirements and not for
7 other purposes. I'm having difficulty
8 identifying such an explosive limitation in
9 either the legislative history or the statutory
10 text. If someone could speak to that, you know,
11 that would be much appreciated, or if they could
12 like speak to that in any written comments
13 submitted after this meeting.

14 Back to you, Chair. Thanks.

15 CHAIR BURMAN: Before we take any
16 potential comments or clarification to counsel's
17 question, I want to make sure that PHMSA has
18 finished their presentation before we open it up
19 for Committee discussion. Okay?

20 MR. PALABRICA: No, there's a couple
21 more topics.

22 CHAIR BURMAN: Okay. Yes, that's what

1 I thought. Thank you.

2 MR. PALABRICA: So the next topic of
3 discussion is with regard to the definition of
4 the territorial sea of the United States. The
5 joint industry comment expressed that PHMSA's
6 choice to use the definition of the territorial
7 sea at the 12-nautical-mile limit from the
8 baseline of the United States is not appropriate,
9 and that other reasonable definitions exist,
10 including a 3-nautical-mile limit.

11 They further questioned how it was
12 that PHMSA was able to apply certain definitions,
13 such as the EPA definition of estuarine waters,
14 but not the EPA definition of the territorial sea
15 under the Clean Water Act.

16 And PHMSA's response is that the NOAA
17 data referenced in the IFR does refer to the 12-
18 nautical-mile limit, and the NOAA data and
19 nautical charts are the definitive reference for
20 U.S. maritime boundaries affirmed in Presidential
21 Proclamation 5928.

22 Additionally, PHMSA regulatory

1 oversight includes offshore pipelines beyond the
2 3-nautical-mile limit. Limiting the seaward
3 extent of the territorial sea of the United
4 States would fail to protect ecological resources
5 Congress sought to protect when incorporating
6 such language within Section 120 of the PIPES Act
7 of 2020.

8 So the next one, the joint industry
9 comment commented that PHMSA's use of other
10 agencies' definition for the territorial sea of
11 the United States, marine waters, and estuarine
12 waters is unsupported by Section 120 of the 2020
13 Act.

14 PHMSA's response is that Section 120
15 defines the extent of marine and estuarine waters
16 up to the head of tidal influence, and that,
17 practically, this means that the new USA extends
18 from the head of tide or the Mean Higher High
19 Water line to the 12-nautical-mile limit,
20 regardless of the specific definition of marine
21 and estuarine waters.

22 Additionally, these definitions

1 correspond to GIS data publicly available from
2 expert scientific federal agencies.

3 With regards to data sources, the API,
4 GPA, and AOPL commented that, if the NOAA
5 database is used, the Sea Level Rise newer data,
6 that PHMSA should consider limiting its use to
7 the 80 percent mapping confidence layer.

8 PHMSA's response is that the NOAA Mean
9 High Higher Water data is the best available data
10 for our criteria. However, Mean High Higher
11 Water limits are still located -- or some are
12 located outside the 80 percent confidence layer,
13 and excluding all data outside of that layer
14 would exclude new USAs.

15 Additionally, as with all national HCA
16 GIS data layers, local knowledge, data, or field
17 assessments would be more accurate than any
18 national-level GIS data and should not be
19 excluded from an operator's analysis.

20 And finally, PHMSA will incorporate
21 any improvements adopted by NOAA every two years.

22 So the next set of comments is on the

1 Regulatory Impact Analysis.

2 The joint industry comment expressed
3 that PHMSA used outdated cost information when
4 conducting the Regulatory Impact Analysis, and
5 that the cost, benefits, and other impact cited
6 in the IFR are not accurate.

7 They further comments that PHMSA
8 should consider the mileage growth in the
9 estimates in the RIA.

10 And they commented that, while the
11 2019 Safety of Hazardous Liquid Pipelines Final
12 Rule required leak detection, the RIA does not
13 account for costs associated from accelerated
14 compliance deadlines required under IM rather
15 than the requirements in the Hazardous Liquid
16 Final Rule.

17 Finally, the Alaska Department of
18 Natural Resources expressed concern on consumer
19 impacts.

20 So PHMSA's response is that the cost
21 information considered in the development of the
22 IFR RIA was provided by operators and trade

1 groups.

2 PHMSA responded to similar comments
3 related to the cost for gas gathering lines in
4 the proceedings for the Gas Gathering Line Final
5 Rule, and the docket item for that response is
6 shown on the slide there. And that's
7 PHMSA-2011-0023-0504.

8 Additionally, the expected scope of
9 impact on regulated rural gathering is small, but
10 covers coastal areas sensitive to hazardous
11 liquid line releases.

12 However, nevertheless, PHMSA will
13 consider the feedback from comments and the
14 discussion of the LPAC in the development of the
15 Final RIA and the Final Rule.

16 Okay. So this concludes the briefing,
17 the PHMSA briefing, on the applicability,
18 definitions, and data sources requirements topic.

19 CHAIR BURMAN: Thank you so much.
20 This is Chair Burman with the New York Public
21 Service Commission.

22 I do want to thank PHMSA for going

1 through this. We looked at the applicability,
2 the definitions, data sources, and the Regulatory
3 Impact Analysis and the comments, and then
4 PHMSA's response to them.

5 We're now going to open it up for
6 public comment.

7 Also keep in mind, from Counsel's
8 Office, PHMSA Counsel's Office, Robert Ross did
9 ask for folks -- whether it's from the public,
10 and then, when we get to the Committee -- for
11 clarification on his concerns related to the
12 issues that we discussed.

13 So before we do that, Counsel Ross, do
14 you want to further make any more statement on
15 what you're looking for before we go to the
16 public, and then to the Committee?

17 MR. ROSS: Certainly, Chair. You
18 know, I just, as I mentioned a little bit
19 earlier, it would be quite helpful to us.
20 Because if there were, I guess, data points in
21 the legislative history or in the statutory text,
22 that the members of the industry or the public

1 point to, you know, like to support their
2 positions or characterizations of the scope of
3 the mandate that we're implementing in this one,
4 I think.

5 That would be very helpful for us to
6 understand what the appropriate scope is, you
7 know, like at least what the spec is on that, you
8 know, what the appropriate scope is, such that we
9 can like respond to those concerns en route to
10 finalization of this IFR.

11 CHAIR BURMAN: Great. Thank you so
12 much. And before we go to public comments, does
13 anyone else from PHMSA have anything that they
14 want to raise at this time?

15 MR. GALE: No, we don't, Ms. Burman.

16 CHAIR BURMAN: Okay.

17 MR. GALE: But I wanted to point out
18 to you that Member Lyon has his hand up.

19 CHAIR BURMAN: Okay. Great. Member
20 Lyon, we are going to have Committee discussion,
21 but if you have a point of clarification before
22 we go into that? We're going to go to public

1 comments, and then to Committee discussion. So,
2 Member Lyon?

3 You are muted.

4 MEMBER LYON: Okay. Can you hear me
5 okay?

6 CHAIR BURMAN: Yes. Thank you.

7 MEMBER LYON: Okay. Great. So I'll
8 let the public comments go first.

9 CHAIR BURMAN: Okay. Great. Thank
10 you.

11 We're going to go, I'm going to go
12 back to John Gale to help me with the public
13 comments because I can't see who might be having
14 their hand raised.

15 I'll also remind folks to state for
16 the record your name, and if you're with an
17 entity, to do that as well. John?

18 MR. GALE: Thank you, Chairperson
19 Burman. And one thing I'd like to note is that I
20 think some of the comments that were made by Mr.
21 Hite and Mr. Murk addressed some of these matters
22 as well. So just for the record purposes, the

1 PHMSA staff, of course, will consider those.
2 Even though they were discussed under the
3 previous section, we'll make sure they covered
4 those as well.

5 So is there anybody in the public who
6 has any comments they'd like to make on this
7 section of the meeting, please raise your hand.

8 Right now, we do have one member of
9 the public that has their hand raised.

10 Mr. Coyle, if you could, if you could
11 unmute yourself and make your statement, sir?

12 MR. COYLE: Hey, good afternoon. My
13 name is Keith Coyle, and I wanted to make a
14 follow-up comment on behalf of GPA Midstream and
15 API.

16 Rob asked a question about the scope
17 of the statutory mandate. I think the simplest
18 answer that we would give us the language of the
19 statute itself. It specifically references
20 49 CFR 195.450.

21 And if you go to that provision in
22 195, you will see that that provision only

1 establishes definitions for purposes of the IM
2 rules in 195.452. So in terms of clarity from
3 Congress on applicability of a mandate in terms
4 of text, we think that's pretty clear and speaks
5 for itself.

6 And we did provide additional
7 information on those points in the joint industry
8 comment letter that was submitted on behalf of
9 GPA, API, and the AOPL.

10 And another point that we made in our
11 comment letter was we certainly don't think there
12 was any intent on the part of Congress in that
13 language to apply a new HCA definition to rural
14 gathering in low-stress lines without providing
15 public notice, the opportunity to comment, and
16 presenting a proposed rule to this Committee. So
17 I think that's probably the best summary of our
18 position on that.

19 CHAIR BURMAN: Thank you so much.

20 This is Chair Burman.

21 If you could lower your hand?

22 And then I see from the public we also

1 have David Murk. David, if you want to speak?
2 Again, state your name and who you're with.
3 Thank you.

4 MR. MURK: Thank you, Commissioner
5 Burman. This is Dave Murk, the Pipeline --

6 CHAIR BURMAN: And I think you need to
7 speak up a little bit. Sorry.

8 MR. MURK: I'm sorry. This is Dave
9 Murk. I'm the Pipeline Director with the
10 American Petroleum Institute.

11 And I actually wanted to go back to a
12 comment that Graham Bacon had made from the
13 industry member side with respect to the
14 effective date.

15 I understand the stay enforcement
16 related to gathering lines or that portion of the
17 IFR, but I would strongly encourage that the
18 effective date for any part of the rule outside
19 of that gathering lines piece to the date of the
20 Final Rule, just based on the fact that part of
21 the rulemaking process is to have these
22 discussions, and if things change, you know, we

1 want to make sure that the effective date,
2 members are able to meet those deadlines. So,
3 again, would encourage the effective date be tied
4 to the Final Rule, not the IFR. Thank you.

5 CHAIR BURMAN: Thank you so much.

6 And I'm looking to see if there's any
7 member from the public, before we go to the
8 Committee, who has comments to make at this time.

9 I do not see any hands raised.

10 John, do you see anybody's hands
11 raised?

12 MR. GALE: John Gale with PHMSA. No,
13 Ms. Burman, I do not.

14 CHAIR BURMAN: Okay. Great. And
15 thank you to the public who have provided the
16 comments.

17 I want to now call, before we go to
18 the Committee, for PHMSA, if they have any
19 follow-up response that they want to make at this
20 time?

21 MR. GALE: Ms. Burman, we do not right
22 now.

1 CHAIR BURMAN: Okay. Great. Thank
2 you so much. We're now going to move to the
3 Committee, and I do see that we have a number of
4 hands up. Mr. Shawn Lyon?

5 MEMBER LYON: Thanks, Commission
6 Burman. I just want to comment -- and it was
7 brought up in the public -- I think to answer Mr.
8 Ross' question, to refer to the letter, the joint
9 industry association letter, dated August 11th,
10 2022.

11 We tried to take some time to put
12 together some of the rationale of maybe why our
13 concerns, I think directly getting to Mr. Ross's
14 question. In particular, I think page 10 of that
15 letter helps with some of that, and probably in
16 the lead-up to that, and even as it finishes.

17 So I'd just encourage PHMSA in the
18 overall process to look at this. And there's a
19 lot there, and that's why it's hard to fully
20 discuss it.

21 And I think it also reiterates just
22 the normal process or due process we've gone

1 through in the past -- and I think we've been
2 successful jointly -- of all coming to the middle
3 where there's alignment and understanding, but
4 this is kind of a little bit rushed in that we're
5 not as easily getting our points out.

6 We do appreciate, I think, LPAC having
7 and PHMSA having this discussion now. At least
8 we can get some comments on the record, and
9 hopefully, make some reflections in the Final
10 Rule.

11 CHAIR BURMAN: Member Lyon, this is
12 Chair Burman. You referenced the letter and page
13 10. You referenced it as dated August 11th.
14 There's also an August 15th, 2022 letter. So I
15 just want to make sure we're referring to the
16 same -- which dated letter?

17 MEMBER LYON: Yes, I am -- hang on
18 here. Let me go to the top here and make sure
19 what I'm looking at. It's August 15th.

20 CHAIR BURMAN: Okay.

21 MEMBER LYON: It is August. It's the
22 one that just came in, and we took some

1 additional time to try to spell out. So that's
2 why the letter came in a little bit later, I
3 think exactly to Mr. Ross' question and maybe
4 some of the PHMSA staff's question.

5 CHAIR BURMAN: Okay. Great. I just
6 wanted to clarify that we were talking about the
7 same letter. So it's the letter dated August
8 15th, and the whole letter, but, in particular,
9 page 10 is what you would direct folks to?

10 MEMBER LYON: In regards to Mr. Ross'
11 question.

12 CHAIR BURMAN: Yes. Okay. Moving
13 further, do you have any other comments on the
14 applicability, definitions, and data sources?

15 And I do also see that Mr. Ross has
16 his hand raised his well.

17 MEMBER LYON: Yes, I don't, Chairman.

18 CHAIR BURMAN: Okay. Great. If you
19 can put your hand down?

20 Before we move to the other members,
21 I will give PHMSA Counsel Robert Ross an
22 opportunity to speak. Thank you.

1 MR. ROSS: Thank you, Chair. And I
2 really appreciate Keith's comments and Mr. Lyon's
3 comment as well.

4 And we do have the benefit of some
5 fairly extensive comments submitted by the joint
6 industry trade associations. And we really
7 appreciate the level of detail, the level of
8 rigor, and attention that you all put into it.
9 It really is going to help us in our
10 decisionmaking on reaching finalization.

11 I think one question that I still have
12 is with respect to this characterization of the
13 scope of the mandate -- and it doesn't
14 necessarily need to be hashed out here, but
15 perhaps, you know, in a joint trade association,
16 in accordance with their counsel, to address this
17 concern on my part.

18 It is that, you know, reading the
19 195.450 definitions, I understand the preparatory
20 language in the section that speaks to those
21 definitions being applicable in the section; that
22 is to say, in 450 and in the subsequent Section

1 452, in those definitions in 450, or referenced
2 in other places in our regs. And it would be
3 helpful for us to understand why the first part
4 of that conjunction is not governing here, where
5 there could be broader implications intended by
6 Congress than just beyond the IM context.

7 Because, once again, looking at the
8 regulatory provision and the statutory language,
9 it's difficult for us to identify that basis. I
10 think at this point we're probably, you know,
11 we're doing some pretty meaty like legislative
12 history in other sessions. And therefore, I'd
13 just submit that if you can really kind of put,
14 as the industry considers whether it wants to
15 submit supplemental comments in response, you
16 know, following this LPAC, that they address that
17 concern. Thanks.

18 CHAIR BURMAN: Thank you so much,
19 Counsel Ross. I want to turn it over to others
20 in the Committee who might want to discuss, have
21 any comments or questions.

22 I did see that we had -- and, Jonathan

1 Wolfgram, you had your hand up initially. So I'm
2 going to turn to you.

3 But I also do want to remind Mr.
4 Bacon, he made some comments before we went into
5 PHMSA's presentation that were related. So I do
6 want to make sure that we capture -- what he had
7 said for the record is also applicable here as
8 well. So, Jonathan?

9 MEMBER WOLFGRAM: Thank you, Chair
10 Burman. Jon Wolfgram, government representative
11 for the Minnesota Office of Pipeline Safety.

12 Just kind of maybe some comments, and
13 maybe a question in there as well. As we started
14 off on this section kind of looking specifically
15 at how Section 120 applies and what the intent of
16 it is, I guess hearing the industry comment, as
17 well as PHMSA counsel comment, I don't know if
18 there is any other discussion that PHMSA has
19 regarding, are we specifically talking about the
20 definition of a USA, which, as I am looking at
21 it, it seems that's the case? But hearing
22 industry comment that it's specifically looking

1 at the applicability of IM regulations. So maybe
2 a comment, but it seems like that is kind of an
3 important thing that I think the Committee needs
4 to understand as we look at things today. Thank
5 you.

6 CHAIR BURMAN: Okay. Great. Thank
7 you so much. And before we move into the next
8 member's comments, I do want to take a pause in
9 case PHMSA wants to respond now, or hold off
10 until after everyone speaks.

11 MR. MAYBERRY: Not right now, Diane.

12 CHAIR BURMAN: Okay. Great. Thank
13 you. So now we will go to Chuck.

14 MEMBER LESNIAK: Thank you.

15 Chuck Lesniak, representing the
16 public. I just had a question for PHMSA about
17 the data source discussion. It looks like
18 there's a little bit of a disconnect.

19 The industry comments were critical in
20 saying that PHMSA used old data for the cost-
21 benefit analysis. And PHMSA's response was, or
22 seemed to be well, this is data we got from the

1 industry.

2 And so can someone from PHMSA explain
3 PHMSA's perspective on that, or maybe provide
4 some more detail on their response? Because it
5 seems like there's a little bit of a disconnect
6 there. Thank you.

7 CHAIR BURMAN: Thank you so much for
8 that. I don't see anyone else's hands raised.

9 And, John Gale, from PHMSA?

10 MR. GALE: Thank you, Chairwoman
11 Burman.

12 Yes, Chuck, just real quick, you know,
13 as was raised by the comments regarding the use
14 of this IPAA data that was referenced, and the
15 comment that was raised I believe by Mr. Murk
16 regarding the ICF data that was submitted during
17 the gas transmission rule that was published back
18 in 2016, we're going to take those comments into
19 great consideration. We're going to make sure
20 that any cost-benefit analysis that's done uses
21 the most up-to-date information with regard to
22 those gathering lines that are potentially

1 impacted.

2 But I think that it's important to
3 point out, regarding the impact of the cost,
4 right, that we have not heard any question
5 regarding the number of miles impacted. And the
6 number of miles impacted here are gathering. In
7 our estimation, it's below 100 miles. We believe
8 it's in the 50s, right? So the number of miles
9 impacted is not very great.

10 And the requirements that we're
11 looking at imposing are things like damage
12 prevention, cathodic protection, I think public
13 awareness, right? It's not the full extent of
14 Part 195. It's just those requirements that are
15 listed out in 195.11.

16 And, you know, when we've dealt with
17 different issues over the times, you know, these
18 are provisions with different entities in the
19 pipeline industry over a period of time. Those
20 are areas that we have always heard in many cases
21 that prudent operators apply, even when they're
22 not regulated.

1 So, yes, we need to update the
2 numbers, but we're also dealing with a very small
3 amount of mileage, and we're going to get the
4 numbers as best we can in that Final Rule and get
5 it correct. But we also believe that the numbers
6 that we utilized don't impact in any which way a
7 decision as to where we should land on this
8 issue.

9 So we need to update the numbers, yes,
10 but the numbers impacted, and the requirements
11 that are imposed, do not, should not have a very
12 great impact in the first place. I hope that
13 helps.

14 MEMBER LESNIAK: Yes. Thanks very
15 much.

16 CHAIR BURMAN: Does anyone else have
17 any comments? I see David Barnett.

18 MEMBER BARNETT: Thank you, Chairman.

19 David Barnett, representing the
20 public. You know, it's clear to me, as I read
21 the congressional mandate and PHMSA's attempt
22 here on applicability, what I heard Congress say

1 in that was that they wanted PHMSA to move
2 swiftly to protect the coastal and inland waters
3 of the United States from liquid pipeline spills.

4 And for PHMSA not to include the
5 higher pressure gathering that they've included
6 in this would mean that they were only partially
7 protecting these inland waters and not meeting
8 Congress' mandate. I mean, if we're going to
9 protect our coastal waters and our inland waters,
10 mandated by Congress, from liquid pipeline
11 spills, we have to, I think, really consider what
12 it takes to protect those.

13 And I support the applicability that
14 PHMSA has put forth. Thank you.

15 CHAIR BURMAN: Thank you so much. I
16 do see Bill from Pipeline Safety Trust has his
17 hand raised.

18 MEMBER CARAM: Thank you, Chairwoman
19 Burman. Yes, I'm going to support Mr. Barnett's
20 comments there.

21 Again, this is Bill Caram from the
22 Pipeline Safety Trust, representing the public.

1 Looking at that statutory mandate,
2 there is some obvious urgency there and a clear
3 desire to protect the Great Lakes. And I think
4 that includes all of the lines of pipe that are
5 mentioned in this rule, including the 50ish miles
6 of gathering.

7 And the standards that would be
8 applied, the public, and I believe Congress,
9 would greatly support. So thank you very much.

10 CHAIR BURMAN: Thank you. I see,
11 Member Barnett, your hand is still raised. Do
12 you have any further comments? Or is that just a
13 delayed lowering?

14 MEMBER BARNETT: No, ma'am, I'll take
15 it down. Thank you.

16 CHAIR BURMAN: Okay. Great. Does
17 anybody else have any comments before we look to
18 see if PHMSA has any further qualification or
19 response to anything that's been said?

20 Seeing no hand raised from the
21 Committee, I'm going to turn it back over to
22 PHMSA, if any they have any further comments.

1 And I don't hear anyone. I'm sorry.

2 MR. MAYBERRY: Chairwoman --

3 CHAIR BURMAN: Great.

4 MR. MAYBERRY: -- Burman, we do, just
5 in general related.

6 You know, I've heard a number of words
7 used, such as authorization, jurisdiction,
8 direction from Congress. But, just to clarify,
9 and for those members of the public who are
10 participating that may not be familiar, you know,
11 Congress provides authority to PHMSA to oversee
12 pipeline safety. And the contexts of this rule
13 were within that authority that Congress has
14 given us. It's quite broad.

15 So, you know, when we're looking at
16 the discussion on Section 120, I think these
17 comments really relate to -- you know, there's a
18 feeling that we went beyond the direction,
19 specific direction, established by Congress.

20 And obviously, we've explained it
21 differently. What's the right thing to do, I
22 would ask, related to protecting the environment

1 and preserving safety? What we're driving at
2 were part of the comments that Dave Barnett
3 offered.

4 And again, I think it was raised as
5 well that this is not a whole lot of mileage that
6 we're talking about that was impacted by this
7 provision.

8 So thanks. I think my comment may
9 have generated questions. So back to you.

10 CHAIR BURMAN: Yes. Thank you.
11 Thanks. Member Bacon?

12 MEMBER BACON: Yes, Chair. Graham
13 Bacon, member of industry.

14 Just as a procedural, as we go through
15 the process here, are we commenting now on the
16 data sources for the regulatory impact of the
17 impact on rural gathering or the overall cost-
18 and-benefit analysis that was discussed as part
19 of the original presentation? And will we have
20 an opportunity to weigh in on the cost-benefit
21 analysis for the entire proposed rule, or the
22 Final Rule, I should say?

1 CHAIR BURMAN: Thank you, Member
2 Bacon. That was a great question. I'm going to
3 turn it over to PHMSA, John Gale.

4 MR. GALE: Yes. Thank you, Ms.
5 Burman. Yes, Member Bacon and all members, this
6 is the time to make any comments or have any
7 discussion on those requirements that -- we're in
8 applicability, definitions, and data sources.
9 So, yes, this would be your cost-benefit time, if
10 you have any issues or concerns you want to raise
11 regarding the cost-benefit; any issues or
12 concerns regarding NPMS.

13 To be honest with you, after this, you
14 know, right now, the way we have it structured,
15 as we discussed in the pre-brief, this is the way
16 we've broken it up to really cover all those
17 areas. So after this, it's really simply a vote
18 on the transcript, et cetera, being the report,
19 as required by Congress. So if you have any
20 concerns or want to raise any issues in these
21 other areas, now is that time.

22 MEMBER BACON: Okay. Thank you. I

1 will. The issue I would like to raise on the
2 cost-benefit analysis, and not questioning the
3 validity of the applicability of the regulatory
4 miles, but bringing in almost, just to be in the
5 record, they're trying to bring in almost 3,000
6 miles of pipe into IM programs, plans, and the
7 compliance cost of \$4 million annualized.

8 As an operator of over 50,000 miles of
9 pipe -- and many of those with IM plans -- I can
10 tell you for certain that trying to implement
11 3,000 miles of pipe at \$4 million is grossly
12 underestimating the cost to implement those
13 plans.

14 Not arguing about the benefits of
15 incorporating them, but I would request that
16 PHMSA in the future look to try to get better
17 data on the cost for compliance. It seems to be
18 consistently, as a member of industry, when we
19 see cost for compliance with regulations, they
20 are well underestimating the cost that industry
21 has to spend to comply with these requirements.

22 And not arguing on the merits of

1 incorporating IM into the USAs, I just would like
2 for PHMSA to, in particular, get better data on
3 the cost that industry requires. So that the
4 facts, when we see a cost-benefit analysis,
5 actively reflect the cost that industry
6 experiences. And thank you for the opportunity.

7 CHAIR BURMAN: Great. Thank you. I'm
8 looking and I see, Mr. Bacon, your hand is still
9 up, and PHMSA's John Gale, your hand is up.

10 MR. GALE: Yes, if I may, Ms. Burman.

11 CHAIR BURMAN: Yes. Great.

12 MR. GALE: Yes, Member Bacon, thank
13 you for those comments. And, you know, the one
14 thing I would like to mention is, over the last
15 several years, we've had a significant change in
16 our organization where we are starting to bring
17 on a lot more staff related to our econ
18 evaluations and our econ development. That team
19 actually is led by Ermias Weldemicael, who is
20 actually in the meeting with us today.

21 And I think one of our goals is, as
22 we've finished up some of these rules over the

1 last several years, from going back to 2019 and
2 the hazardous liquid rule and the gas
3 transmission, the first one -- and now, we've
4 finished up valves and we've finished up gas
5 gathering, and we're finishing up what we call
6 round two on gas transmission -- I think, you
7 know, I don't want to speak for Ermias. But one
8 of the things we want to do is definitely improve
9 that area. And I think he's bringing on the
10 staff and the expertise that is going to allow us
11 to breathe for a minute and actually start doing
12 that digging, and making sure that those analyses
13 are in tiptop shape going forward.

14 So that's not just a personal
15 commitment for me, but I think that it's a
16 commitment that I've heard from our leadership
17 going forward.

18 CHAIR BURMAN: Thank you for that,
19 John. Member Bacon? Thank you.

20 MEMBER BACON: Hi. This is Graham
21 Bacon, industry member. I just wanted to thank
22 John for that explanation.

1 CHAIR BURMAN: Thanks. Does anyone
2 else have any comments or questions at this time?

3 Okay. We're going to be moving into
4 the discussion on the potential vote. Do you
5 want me to read the slide or how do you want to
6 handle this, PHMSA, John Gale?

7 MR. GALE: Yes, thank you, Diane.
8 John Gale again, PHMSA.

9 So, members, so we have a vote slide
10 on here. We're very cognizant of the fact that
11 this is your meeting, right? This is your
12 recommendation.

13 So this is just the verbiage that
14 comes from the statute. Oops, we lost the screen
15 here.

16 And obviously, if you want to modify
17 this, change this, based on any of the
18 discussions you've had, of course, or any
19 recommendation you have, that is your
20 prerogative. We're not trying to lead you in any
21 which way, shape, or form. This is just the
22 language as a starting point.

1 The one thing I would raise just
2 mentioned, and I think Ms. Burman is well aware
3 of it, the one comment that we've kind of heard
4 over the last, what, hour and a half or so is
5 regarding the effective date. So if there's any
6 recommendations to modify, of course, it's the
7 members' prerogative to put forward the language
8 that they see fit.

9 CHAIR BURMAN: Yes, thank you so much.
10 This is Chair Burman. I do appreciate some of
11 the clarification. When we do the Committee
12 voting, it does have to come from the Committee,
13 as PHMSA John Gale said. And this really is a
14 procedural attempt at putting this here for us,
15 then, to substantively make, when appropriate, a
16 vote.

17 We're really discussing it now.
18 There's been no motion before here.

19 We do have comments that have been put
20 up and discussed further today. There was also a
21 clarification from PHMSA on the good-cause
22 exception and how we are not voting on that

1 within this.

2 And then, also, for members who have
3 heard comments, in particular, from Member Bacon
4 on the delay of the effective date issue, whether
5 or not to incorporate that in some fashion in the
6 vote may or may not be appropriate.

7 With that, I'm going to open it up for
8 the Committee discussion, understanding no motion
9 has been put forward yet. If anyone has any
10 comment or thoughts before we move into that?
11 Okay. Member Barnett?

12 MEMBER BARNETT: Yes. Thank you,
13 Chairman. Dave Barnett, with the public.

14 You know, on the applicability date,
15 the enforcement date, or however it would be
16 referenced, I would yield to industry to hear
17 what their thoughts are on, you know, what would
18 be more feasible to them, noting that this is a,
19 was an urgent, seemed to me an urgent requirement
20 from Congress.

21 But, also, in our vote, if I'm
22 understanding it right -- and if not, someone

1 could maybe correct me on it -- but we have the
2 ability to put forth our recommendations on when
3 we think the effective date should be, if it's
4 the Final Rule or the Interim. And I'd like to
5 just yield to industry to hear maybe their
6 thoughts on what works better. Thank you.

7 CHAIR BURMAN: Thank you, Member
8 Barnett. Does anyone have any response or
9 thoughts, whether in response to Member Barnett
10 or -- Member Bacon?

11 MEMBER BACON: Yes, Graham Bacon,
12 member of industry. I would propose that the
13 date be made, that the Final Rule -- I think
14 sometimes we underestimate the time that it takes
15 to get in compliance, to gather the recommended
16 data, and to get all of the systems in place.

17 But, more importantly, I think if we
18 make it the Final Rule, it somewhat addresses the
19 concerns about the comment period and this group
20 having had the ability to weigh in on the
21 regulation. And I would encourage that it be the
22 Final Rule and would request that, if there's

1 concerns about applicability date, that PHMSA
2 issue the Final Rule as soon as practical, and we
3 could move on. But that would be my
4 recommendation. Thank you.

5 CHAIR BURMAN: Thank you.

6 I see also a hand raised from Chuck,
7 and then Member Lyon as well. So, Chuck?

8 MEMBER LESNIAK: Thank you. Chuck
9 Lesniak, representing the public.

10 A couple of questions in this for
11 PHMSA, I think. Can you clarify for us what the
12 implementation date would be, the compliance date
13 would be, once this approved for the IFR? And
14 what the schedule is for the Final Rule?

15 And then just a comment. You know, my
16 thought is this has been coming down the pike for
17 a long time. The industry has known this is
18 coming. Congress has acted on this twice. And
19 so to me, I feel like there's not a strong
20 argument, and it's a limited number of miles. I
21 know 3,000 miles is a lot, seems like a lot, but
22 in the scope of the pipeline mileage, it's a

1 relatively small amount. And the industry has
2 known this has been coming for a long time.

3 I'd like to hear the response from
4 PHMSA, but I don't think I support delaying
5 implementation of this at all.

6 CHAIR BURMAN: Okay. Thank you for
7 that. Before we have PHMSA respond, I see that
8 Member Lyon has his hand raised.

9 MEMBER LYON: Yes, Chairwoman Burman,
10 I just want to clarify. So we are going to go to
11 vote on this if someone moves? It seems like
12 there's been some good discussion on all sides,
13 and it might need some follow-up just to make
14 sure we're all understanding what we're talking
15 about, to see if we can get alignment before a
16 vote.

17 But I just want to clarify, are we
18 voting today or was this to get the comments out,
19 and then we go from there? And again, this
20 meeting has fleshed out some of those concerns or
21 comments, and I just wanted to clarify.

22 CHAIR BURMAN: So before we move to

1 PHMSA, who can also provide further
2 clarification, the plan was potentially to take
3 two votes.

4 The first is on, as we see from this
5 slide, this is a draft framework of a potential
6 vote. The Interim Final Rule as published in The
7 Federal Register, with regards to the
8 applicability, definitions, and data sources are
9 technically feasible, reasonable, cost-effective,
10 and practicable.

11 And then other vote, I believe, is on
12 the report. And from what we're looking at, this
13 framework and this draft can be amended, as
14 appropriate. Again, no motion has been put
15 forward; no second has been put forward at this
16 time on perhaps adding, or not, clarification on
17 the issue that was raised and delay of the
18 effective date issue.

19 Obviously, we've heard some discussion
20 on this. And now, I'm going to move it to PHMSA,
21 if they have any further qualification or
22 comments.

1 Again, keep in mind that whatever vote
2 may or may not be put forward has to come from
3 the Committee itself. And right now, we haven't
4 called the question. We haven't called the vote.

5 Does anyone from PHMSA want to add any
6 clarification at this time?

7 MR. GALE: Yes, Ms. Burman. This is
8 John Gale here. If I could, so first addressing
9 Member Lyon's comment, if I could. Just to be
10 clear, this is the meeting on the rule. There's
11 not a plan for a subsequent meeting after this
12 for the LPAC to further discuss this rule.

13 And the way, as Ms. Burman has
14 outlined, and as we discussed in our pre-brief,
15 this is really the meeting or the vote to discuss
16 the substance of the rule in terms of the
17 applicability, in terms of the definitions, and
18 in terms of the data sources, and to a degree as
19 well, as to the RIA that supported those
20 decisions.

21 That being said, regarding the current
22 effective dates of the rule, the rule is

1 effective already with regard to the
2 applicability of the USA definition as used in
3 terms of integrity management.

4 With regard to its impact on low-
5 stress line and the liquid rural gathering lines,
6 that effective date is currently stayed, and, of
7 course, that would be, then, decided as we move
8 forward in this process, either at that Final
9 Rule stage or at some earlier or later date.
10 And, of course, there could be a recommendation
11 from the Committee to discuss it.

12 In terms of the plan for the Final
13 Rule, right now, if you look into the regulatory
14 agenda and the plans for this rule, I believe the
15 publication date, or the hope for the publication
16 of the Final Rule is in, I think, late winter of
17 next year. So I think it's late February or
18 early March of next year is our goal to publish
19 this Final Rule.

20 So we're going to try to move on this
21 as quickly as possible. And so we look forward
22 to hearing what the Committee's recommendation is

1 going forward. And I see Member Lesniak has his
2 hand up.

3 CHAIR BURMAN: Great. Thank you so
4 much. Chuck?

5 MEMBER LESNIAK: Just a quick follow-
6 up. So, John, it sounds like the IFR is already
7 in place. Really, the only change would be for
8 the approximately 50 to 60 miles of gathering
9 lines. Everything else is already affected?

10 MR. GALE: Sorry. Yes, this is John
11 Gale again. Thank you, Member Lesniak, for that
12 question.

13 So that is correct in terms of what
14 the status quo is. But I don't want to limit
15 your ability, as a Committee and as members, as
16 to putting forward a recommendation to us.

17 MEMBER LESNIAK: Thanks.

18 CHAIR BURMAN: And, Chuck, your hand
19 is still up. Do you have anything further to add
20 at this time?

21 MEMBER LESNIAK: Seeing your hand is
22 down now, I'm going to go to -- is that Member

1 Sarah?

2 MEMBER MAGRUDER LYLE: Hi. Thanks so
3 much. I just want to be clear. When we started
4 the call, we had talked about this being non-
5 voting. And I just want to be clear on what we
6 had decided we were not voting on versus what we
7 are. I don't mean to beat a dead horse, but I
8 just want to be clear that I understand exactly
9 what we're voting on. And I just want to know
10 what vote one and vote two was. But what I want
11 to be clear about, then, is what is the not
12 voting piece. Because I thought I understood in
13 the beginning and don't now.

14 I mean, there is clearly some, you
15 know, concern about process here and what's been
16 included, and how it was included. So I want to
17 be sure that everybody's on the same page.

18 CHAIR BURMAN: And I think it's a
19 great clarifying question. There was some
20 discussion in the beginning, and I'm going to
21 turn it to PHMSA, John Gale, to talk, which is
22 really to the non-voting aspect, and then we get

1 to the voting aspect.

2 So before we get to other members, I'm
3 going to turn to PHMSA, John Gale, to add some
4 context and clarification to the question and
5 what we have before us to vote on.

6 And again, remember no motion has been
7 made or seconded at this time.

8 MR. GALE: Thank you, Ms. Burman.

9 Yes, sorry, members, if there was any -- if it's
10 unclear what we're trying to do here.

11 But, in terms of what we said in terms
12 of we weren't requesting a vote or weren't
13 looking for a vote, that was simply on the
14 procedural aspect of, should we have issued an
15 IFR or not, or did we have the good cause to
16 issue the IFR.

17 We did provide the opportunity for the
18 public to make comments. We provided an
19 opportunity for the members to provide comments
20 on that issue. But it is a procedural issue in
21 terms of how we manage our rulemaking portfolio.

22 We are, though, right, in terms of the

1 construct of the meeting, looking for the
2 Committee's input on the substance of the
3 standard itself, which is those issues related to
4 the definitions that were put forward by
5 Congress, the applicability of those definitions,
6 the data sources of those definitions, and the
7 RIA that supports those decisions.

8 And that's what this vote slide is
9 trying to put forward, is that recommendation
10 from the Committee, consistent with its mandate
11 from the statute on the standard that was
12 published in the IFR, not the process, but the
13 standard itself.

14 CHAIR BURMAN: Good. Before we go
15 back to other members -- and, Sarah, I'm going to
16 give you a moment to respond or ask any
17 clarifications as well.

18 But, John, as I understand it -- this
19 is Chair Burman -- as I understand it, it really
20 was also an attempt for those who had concerns
21 and submitted comments, either written or made
22 comments here at this time, or in the process

1 with a number of different things, including good
2 cause, that that did not, then -- you are not
3 voting on those aspects of it. And that whatever
4 your concerns, or not, were for those could still
5 stand, but that you will, then, be moving to vote
6 on the Interim Final Rule, as published in The
7 Federal Register.

8 Is that correct?

9 MR. GALE: That's well said, Ms.
10 Burman, yes.

11 CHAIR BURMAN: Okay. So I'm going to
12 ask, Sarah, do you have any further comments or a
13 need for clarification?

14 MEMBER MAGRUDER LYLE: Yes, thank you
15 so much. So my question is this. So even though
16 we're not voting on whether we think procedurally
17 it was correct, there are certainly concerns
18 about whether the procedure was correct. And I
19 think that a different input process would have
20 had, could potentially have a substantial impact
21 on how this reads.

22 So my challenge is, if you had

1 concerns about the process, it seems challenging
2 to be able to vote on the substance as it stands.

3 CHAIR BURMAN: Thank you, Sarah, for
4 that. We're going to come back.

5 John, I see your hand is raised. I'm
6 from PHMSA. Do you have any comments or
7 questions?

8 MR. GALE: Sorry, no comment or
9 question, other than, again, this is the
10 Committee's meeting. This is the Committee's
11 vote. So, you know, it's their prerogative of
12 how they move forward. But this is the meeting
13 on the rule.

14 CHAIR BURMAN: Okay. Before we move
15 to that, I do recognize Committee members'
16 concerns with the process. As a state regulator,
17 for me, I've always been focused also on how can
18 we improve the process, taking comments from
19 that.

20 I did hear from PHMSA throughout this
21 meeting in terms of understanding the need for
22 all of us to have our voices heard, which is

1 clearly why, after they were (audio
2 interference).

3 MR. GALE: Ms. Burman, did you get
4 muted?

5 CHAIR BURMAN: Oops, sorry. So I'm
6 going to go now to Member Denton.

7 MEMBER DENTON: Thank you. This is
8 Todd Denton, representing industry.

9 So I appreciate Sarah's questions and
10 comments and John's explanation as well. But,
11 given that we're not in person and being asked to
12 vote on the rule that we have not had input on, I
13 would request a break at some point before that
14 motion and vote for the industry to discuss, and
15 others as well, offline.

16 CHAIR BURMAN: Okay. Thank you.

17 Sarah, I see your hand is raised.

18 MEMBER MAGRUDER LYLE: Yes, and I'm
19 sorry. Members, I will not suck out all of the
20 time here, but my point is that I think, you
21 know, given the concern, being asked to vote on
22 an Interim Final Rule, as it's published, without

1 having the opportunity to impact what was
2 published seems challenging to me, given the fact
3 that, you know, as a representative of the
4 public, we want to make sure that as many people
5 as possible have input into that. So that is my
6 challenge, is being asked to vote something we
7 didn't have input into.

8 CHAIR BURMAN: Thank you for that.

9 Does anyone else have any comments or
10 questions?

11 So what I've heard, before we get to
12 the next step, and the appropriateness of taking
13 a vote, I have heard that folks want a
14 clarification on the process; a clarification on
15 their concerns on the process before we got to
16 the LPAC meeting, and that mirrored with some
17 comments that were submitted in written form, we
18 have gone through a lot of what we would non-
19 voting, focused on thoughts with the process
20 itself.

21 We, then, moved, after substantive
22 discussion, to perhaps Committee voting. There's

1 still further questions and clarifications.

2 What sits for some on the Committee as
3 concerns is that it's hard for Committee members
4 to look to vote on the substantive aspect of the
5 Interim Final Rule, as published in The Federal
6 Register, when they had, notwithstanding that,
7 some concerns on the process itself. And perhaps
8 there is a need for us to figure out, if we are
9 to take a vote today, whether there needs to be
10 in that, clearer expressed, what the process
11 concerns, notwithstanding moving to vote or not,
12 on the Interim Final Rule. So that no one feels
13 that we've moved beyond those concerns.

14 Obviously, there are some lessons learned within
15 that in terms of the engagement with LPAC.

16 And then there also was a suggestion
17 that raised to take a short break of some order,
18 so that folks can talk among themselves, as
19 appropriate, before we come back to do that.

20 There was also some discussion on
21 whether, in addition to the notwithstanding, to
22 also be adding, or not, the issue raised by

1 primarily Member Bacon on the delay of the
2 effective date.

3 With that, I do see, PHMSA John Gale,
4 your hand is raised. So I'm going to turn it to
5 you.

6 And then I see Sarah's hand is still
7 raised as well.

8 MR. GALE: Yes, thank you, members.
9 And thank you, Ms. Burman.

10 Just a couple of points to point out
11 to the members, as they take the break to have
12 that discussion.

13 One of the things is that, regarding
14 the applicability to gathering lines and the low-
15 stress lines, right, we have delayed the
16 effective date of that rule through that stay of
17 enforcement.

18 So in a way, right, we are taking
19 those same procedural steps that you would have
20 seen in an NPRM, in that we have had a public
21 comment period, right? We have submitted the
22 public's requested comments. And we're going to

1 issue a Final Rule on this topic.

2 So, you know, those steps, at least in
3 those two areas, are very similar that you would
4 have seen procedurally from an NPRM.

5 So we would still really like to hear
6 what the members would have to say in that area.

7 And regardless of the fact that it the
8 rule is effective with regard to integrity
9 management rules, we would still like to hear
10 what the members would have to say in terms of
11 moving forward with this rule. We have had a
12 public comment period. We are having an Advisory
13 Committee, and we would like to hear that input.

14 Thank you.

15 CHAIR BURMAN: So with that, I'm
16 looking to see -- I don't see any further hands
17 raised, except from PHMSA John Gale, which I
18 think is just -- yes, okay.

19 So anybody else have any -- I do think
20 that I am hearing the need for a short break. I
21 want to turn it to PHMSA DFO, Alan Mayberry, on
22 how we would do that from a logistics

1 perspective.

2 MR. MAYBERRY: Yes, thanks, Diane.

3 Very simply, we can just call for a
4 break. You can do that. And how does 15 minutes
5 sound? Is that enough time? Maybe Graham or
6 Shawn or Todd can weigh in. But 15 minutes?

7 CHAIR BURMAN: Member Bacon?

8 MEMBER BACON: Alan, would it be
9 possible to have 30 minutes?

10 MR. MAYBERRY: Okay, we'll give you
11 30.

12 CHAIR BURMAN: Thirty minutes, that
13 sounds great. This is Chair Burman.

14 What I would say is we should also be
15 looking at it, I do believe that the LPAC voice
16 is a really important voice. And so for me, it's
17 also making sure that we use our voice in what
18 makes sense substantively, and to the extent that
19 there are concerns, and perhaps recommendations
20 on going forward, collaborating.

21 I do give kudos nod to PHMSA staff,
22 who really tried to work in making sure that our

1 voices are heard.

2 To the extent that we're looking at
3 perhaps changes to add that and clarify, you
4 know, that notwithstanding what some of the
5 concerns are, without necessarily meaning that
6 people have to vote on those particular issues,
7 but that your positions which have also been
8 formalized, both in written form as well as here,
9 are captured for the record.

10 With that, I see, Member Bacon, your
11 hand is still raised. Oh, nope?

12 And, Alan, from PHMSA?

13 MR. MAYBERRY: Yes, I just wanted to
14 clarify, Diane -- thank you -- that it's your
15 call. If you're fine with 30 (audio
16 interference), I just wanted to make sure. I
17 defer to you.

18 CHAIR BURMAN: Me? I didn't hear you.
19 So --

20 MR. MAYBERRY: Yes.

21 CHAIR BURMAN: Yes. Okay, yes.

22 MR. MAYBERRY: I defer to you on the

1 length of the break.

2 CHAIR BURMAN: Yes, 30 minutes is
3 fine.

4 I do want us, you know, if for some
5 reason we come back, I do want us to try to
6 resolve in a way that makes, from my perspective,
7 that makes people feel comfortable with what
8 we're doing. Because I do think it's important
9 that we really hear what folks have to say.

10 So thank you.

11 With that, we'll take -- it's just
12 about 12:45. We will come back sharp at 1:15.

13 And in the meantime, I appreciate
14 everybody for trying to think outside the box of
15 resolving this in an amenable way.

16 MR. MAYBERRY: Thanks.

17 (Whereupon, the above-entitled matter
18 went off the record at 12:43 p.m. and resumed at
19 1:21 p.m.)

20 CHAIR BURMAN: For those of you who
21 are back, we're now back in the formal meeting
22 for the LPAC meeting. We're no longer on break.

1 I do know that, for the record, we
2 took a little over a 30-minute break, so that
3 some members of LPAC could discuss among
4 themselves some thoughts on perhaps how to handle
5 a potential Committee vote.

6 I do want to open it up now to the
7 members who might want to provide some context in
8 where we should go next with after their meeting.
9 So if anyone wants to raise your hand as the
10 spokesperson, or just individually as a member?

11 Again, we were talking about perhaps
12 taking a Committee vote on the Interim Final
13 Rule, as published in The Federal Register.

14 Some of the challenges to that dealt
15 with the fact that, notwithstanding that there
16 still remains some concern with the process, and
17 perhaps needing PHMSA to take into consideration
18 those concerns and has dealt with the process,
19 but also in terms of the effective date.

20 Understanding that not everyone is on the same
21 page with perhaps solutions to that, is there a
22 way of addressing that in a way that was

1 holistically trying to address everyone's
2 concerns, however tricky that is?

3 I see no hands raised. I don't know
4 if that's a good sign or not, but -- I want to
5 recognize -- it looks like PHMSA, John Gale, has
6 his hand raised. Thank you.

7 MR. GALE: Thank you, Diane. You
8 know, just to make sure members are online, Cam,
9 could I ask you to just do a roll call, just to
10 make sure? We see folks' names, but let's just
11 make sure that we do have folks online. If we
12 could just do a short roll call?

13 CHAIR BURMAN: Thank you.

14 MR. GALE: Yes.

15 MR. SATTERTHWAITE: No problem.

16 CHAIR BURMAN: Cam?

17 MR. SATTERTHWAITE: All right. I'll
18 go ahead with the roll call.

19 Jeff Lance?

20 Jon Wolfgram?

21 MEMBER WOLFGRAM: Here.

22 MR. SATTERTHWAITE: Diane Burman?

1 CHAIR BURMAN: Here.

2 MR. SATTERTHWAITE: Graham Bacon?

3 MEMBER BACON: Here.

4 MR. SATTERTHWAITE: Jerry Barnhill?

5 Angela Kolar?

6 MEMBER KOLAR: Here.

7 MR. SATTERTHWAITE: Todd Denton?

8 MEMBER DENTON: Here.

9 MR. SATTERTHWAITE: Shawn Lyon?

10 MEMBER LYON: Here.

11 MR. SATTERTHWAITE: Lanny Armstrong?

12 David Barnett?

13 MEMBER BARNETT: Here.

14 MR. SATTERTHWAITE: Chuck Lesniak?

15 MEMBER LESNIAK: Here.

16 MR. SATTERTHWAITE: Sarah Magruder

17 Lyle?

18 MEMBER MAGRUDER LYLE: Here.

19 MR. SATTERTHWAITE: Bill Caram?

20 MEMBER CARAM: Here.

21 MR. SATTERTHWAITE: All right. Thank

22 you very much.

1 So the only difference between this
2 and the original is we are missing Jerry
3 Barnhill. That's it.

4 CHAIR BURMAN: Okay. Great.

5 So now that everybody is back, again,
6 I will reiterate that we took a break, so that
7 folks could, perhaps some folks could meet
8 offline and discuss issues or potential solutions
9 to the Committee voting.

10 I do see Member Bacon has his hand
11 raised. So I'll call upon him. Thank you.

12 MEMBER BACON: Thank you, Chair. This
13 is Graham Bacon, industry representative.

14 You know, I think just one of the
15 things I wanted to bring up and make sure,
16 procedurally, how we would work this, but having
17 listened through the presentations and the
18 discussion this morning, obviously, there's been
19 concerns both from industry and members of the
20 public on the procedural aspects. And I think
21 maybe I even heard some government representation
22 concerned about the procedural aspects of the

1 process.

2 And if we're to vote on this, looking
3 at how to propose this and propose some language,
4 but is it possible to propose language to vote on
5 this with the recommendation that, recognizing
6 that there were certain procedural deficiencies,
7 that the implementation date of the rule or the
8 effective date of the Final Rule, effective date
9 of the Interim Final Rule should be removed and,
10 basically, take the Interim Final Rule effective
11 date out and replace that with the Final Rule?

12 It seems like that would incorporate
13 some of the objectives that we've heard today in
14 resolving at least the input process. Not
15 exactly the way we would like the process to go
16 in the future, but I think, in order to move this
17 along, we would propose that the effective date
18 be moved from the Final Rule -- from the current
19 Interim Final Rule to the Final Rule date.

20 CHAIR BURMAN: Thank you. I want to
21 call upon PHMSA, John Gale.

22 John, we can't hear you.

1 MR. GALE: Sorry about that. Ms.
2 Burman, thank you for recognizing me. And,
3 Member Bacon, thank you for those comments.

4 You know, one of the things I
5 mentioned earlier is that the rule is already
6 effective. And if you all don't mind -- and
7 again, this is, again, to support you guys,
8 support the members, support the LPAC, as to
9 putting forward language that's going to be
10 effective in the overall process here, right?

11 So what I'd like to ask is, Mr. Ross,
12 one of our Assistant Chief Counsels, regarding
13 the effective date, and procedurally, could we
14 delay that? And if we can't, are there other
15 mechanisms that the Committee could recommend
16 that we could look at to get us to that same
17 goal? So, Mr. Ross, if you wouldn't mind, sir,
18 if you could, first, answer the question about --

19 CHAIR BURMAN: Yes, sir, we'll call,
20 just to make sure we follow, right, process, I'm
21 going to call upon PHMSA, Robert Ross, to address
22 that.

1 Thank you.

2 MR. ROSS: Thank you, Chair. In
3 response to John's questions, I guess the first
4 question is, you know, like, is it procedurally
5 legitimate under the Administrative Procedures
6 Act, you know, like to, I guess, remove the
7 effectiveness of currently effective regulatory
8 provisions? And the short answer is no. That
9 is, in fact, like per the laws, that would
10 require another rulemaking in its own right.

11 However, like consistent with what we
12 did in connection with the regulated rural lines
13 and some gathering lines, you know, like it is
14 within PHMSA's inherent-like authority to, depart
15 from the APA, to be able to issue enforcement
16 instruction saying that, notwithstanding, you
17 know, that as one looks at the regs on the books,
18 you know, PHMSA is going to give, you know,
19 exercise its enforcement discretion, not to like,
20 basically, chase after faults, but compliance
21 with those provisions as they appear until such
22 time, you know, like it has been determined.

1 Now, that could be tagged, you know,
2 the issuance of the Final Rule, you know,
3 consistent with the existing enforcement
4 discussion for gathering lines, talking about the
5 milestones, you know, that the Committee may
6 recommend.

7 And as I understand, John, from your
8 statement, and what's been consistent with the
9 legal requirements, Chair, we would ask, you
10 know, just for something for you potentially to
11 ask John about, but this could be something that,
12 indeed, the LPAC could recommend that PHMSA would
13 consider; that is to say, the issuance of
14 enforcement discretion along the lines of that
15 which I have stated.

16 CHAIR BURMAN: Okay. Thank you. So
17 I think what I'm hearing is the language would
18 have to be clear that we are asking PHMSA to take
19 into consideration concerns, and to the extent
20 that you have enforcement discretion, as
21 appropriate, doing so.

22 MR. GALE: And if I may, Member

1 Burman, just like Rob pointed out, that's the
2 same impact, that would end up having the same
3 impact that, you know, the delay has had on the
4 gathering and the low-stress lines.

5 So it is a term of art in terms of the
6 APA process, but I think, in my opinion at least
7 -- I don't want to speak for the members -- but
8 it does get to what I think what the goal of
9 Member Bacon was in the first place.

10 So I just wanted, we just wanted to go
11 through that process to make sure the right
12 language is recommended, so that we could get,
13 really, to the inherent recommendations of the
14 Committee in the first place.

15 CHAIR BURMAN: Okay. Thank you for
16 that clarification, both from John and from
17 Counsel Ross.

18 I want to open it up to Committee
19 members, if they have any thoughts or suggestions
20 for possible language.

21 I do see Member Bacon. So I'm going
22 to call on you. Thank you.

1 MEMBER BACON: Yes, Chair. This is
2 Graham Bacon, industry representative.

3 Looking at the proposed language and
4 hearing Mr. Ross' statement, and the reasons why,
5 I think we'd be agreeable -- I think that meets
6 the intent of what my comments were.

7 CHAIR BURMAN: Okay. Wonderful. I
8 think we're all going to need, because it does
9 have to come from the Committee, some actual
10 language changes to what we have. I do think
11 that we can do that. I would look to a member to
12 make those suggestions. We can put it up there,
13 and then look at what that is.

14 Remember, we have not taken yet, I
15 have not called for the vote. So this is still
16 in discussion.

17 PHMSA, John Gale?

18 MR. GALE: Thank you, Chair. So as
19 the members were talking, to help the Committee
20 again, the staff has added the language as was
21 discussed, so that they can see that language.

22 CHAIR BURMAN: Okay. I can't see it.

1 So I don't know if anyone else -- I see, and
2 possible if PHMSA consider the following.

3 MR. GALE: No, I'll read it. Let me
4 read it so everyone can see it.

5 So right now --

6 CHAIR BURMAN: Great. I do see Member
7 Bacon has his hand up. But why don't you read
8 it? And then we'll go to Member Bacon.

9 Thanks.

10 MR. GALE: Yes. So just real quick.
11 So the language that's on the screen right now
12 reads the Interim Final Rule as published in The
13 Federal Register, with regards to the
14 applicability, definitions, and data sources are
15 technically feasible, reasonable, cost-effective,
16 and practicable if PHMSA considers the following:
17 Delay compliance to the provisions in the IFR to
18 a date after date of publication of the Final
19 Rule via enforcement discretion.

20 CHAIR BURMAN: Member Bacon?

21 MEMBER BACON: I'm sorry, my hand was
22 raised. It was not intended to be raised.

1 CHAIR BURMAN: That's okay. Thank you
2 so much.

3 Chuck, I see your hand is raised.

4 MEMBER LESNIAK: Yes, Chuck Lesniak,
5 public representative.

6 So I guess this is probably for John.
7 Sir, we pass it with this change, would that --
8 are we talking about just the provisions that
9 would apply to gathering lines, with 50 to 60
10 miles of gathering lines, or are we talking about
11 this would also apply to the 3,000ish miles we've
12 also been talking about?

13 MR. GALE: Again, John Gale, PHMSA, if
14 I may, Chair?

15 I don't want to speak for Member
16 Bacon, but I'm pretty sure his intent was that
17 this would apply to the whole rule, not just
18 gathering, not just low-stress, but we would also
19 be -- it already applies to gathering and low-
20 stress. We already have the enforcement
21 discretion in play already for those two areas.
22 This really would be extending it to those lines

1 that are subject to integrity management.

2 But, Member Bacon, if you want to just
3 clarify your intent, sir?

4 MEMBER BACON: Yes, this is Graham
5 Bacon. Just to clarify my intent, that would
6 have been the entire, the entire IFR, including
7 the, roughly, 3,000 miles that John Gale
8 mentioned.

9 CHAIR BURMAN: Okay. And I see Bill
10 has his hand raised.

11 Bill from Pipeline Safety Trust.

12 MEMBER CARAM: Yes, thank you,
13 Chairwoman Burman. Bill Caram, public member.

14 At the risk of repeating myself, I
15 just want to say again, you know, I believe
16 PHMSA's well within their statutory authority.
17 We've had two congressional mandates. We've had,
18 the industry has had six years to prepare for
19 this, two public meetings, a comment period on
20 the IFR, the LPAC meeting today.

21 And I certainly don't support a delay
22 in the compliance with the provisions of the IFR.

1 CHAIR BURMAN: Okay. Thank you for
2 that.

3 And then, Chuck?

4 MEMBER LESNIAK: Thank you. Chuck
5 Lesniak, representing the public.

6 Yes, just to follow on what Bill was
7 saying, so if we pass it this way, with the way I
8 understand it, we would actually be recommending
9 a rollback on implementation of what has already
10 been happening. And I just can't support that at
11 all, and I can't even support a delay, even if we
12 just apply it to the 60 miles.

13 As I said earlier, you know, and as
14 Bill said, we've got two congressional mandates
15 that are years old. And the industry knew this
16 was coming. I think it would be, personally, I
17 think it would be irresponsible of us to make
18 this recommendation.

19 CHAIR BURMAN: Thank you. And I do
20 see Member Bacon has his hand raised.

21 Thank you so much.

22 MEMBER BACON: Yes, Graham Bacon,

1 member of industry.

2 I would just like to raise the point,
3 certainly, the mandates have been out, have been
4 out there, which I would suggest there has been
5 plenty of time, also, to include due process,
6 given the amount of time that it's been there to
7 have a proposed rulemaking.

8 Certain elements, while it may have
9 been years in the making, there were certain
10 elements, including some of the technical
11 definitions and where the HCAs were defined,
12 particularly as regards -- and in one case, just
13 as an example, for offshore pipes, that the
14 change, I think industry generally was expecting
15 the 3 statutory miles, and then it changed to 12.
16 That is an example of why, of a change that was
17 unexpected by industry and requires additional
18 time to implement.

19 And while there's been discussion
20 about this for many years, it was impossible for
21 many operators to know specifically which
22 pipelines and which areas they would have that

1 would be incorporated, based on the technical
2 definitions that PHMSA has used in proposing the
3 IFR.

4 And that concludes my comments. Thank
5 you.

6 CHAIR BURMAN: Thank you so much.
7 Does anyone else have any other comments?

8 I do think it's hard for some folks to
9 fully process this without the actual language
10 that would put PHMSA should consider the
11 following. Is there a way for us to put that up?

12 MR. GALE: You're not seeing the
13 screen? I'm sorry.

14 CHAIR BURMAN: I can only see -- and
15 I don't know if others can -- I can only see, it
16 says the Interim Final Rule as published in The
17 Federal Register, with regards to the
18 applicability, definitions, and data sources are
19 technically feasible, reasonable, cost-effective,
20 and practicable if PHMSA considers the following.

21 But then what that following is and
22 the language that we discussed, I don't see.

1 MR. GALE: Member Bacon, out of
2 curiosity, do you see the extra language
3 regarding delayed compliance?

4 MEMBER BACON: Yes, I do.

5 MR. GALE: So it's the New York
6 internet is the issue, it sounds like.

7 MEMBER BARNETT: This is Dave Barnett.
8 I'm not seeing it, either, and I don't know if
9 I'm not clicking on the right field, or what, but
10 I have not seen anything.

11 MR. GALE: We're not sure why some
12 folks are seeing it or not. So not to sound like
13 I'm below the age of 30, we're going to drop the
14 language in the chat, so that the members can see
15 the language specifically, so everyone can see
16 the language.

17 CHAIR BURMAN: Oh, I can. I can see
18 it now.

19 MR. GALE: You can see it now? Okay.

20 CHAIR BURMAN: Yes.

21 MR. GALE: Great. Member Barnett, are
22 you seeing it, sir?

1 CHAIR BURMAN: If anyone can't see it,
2 if you can raise your hand?

3 MR. GALE: Yes. All right. We're
4 still going to drop it in the chat.

5 CHAIR BURMAN: Okay. I'm going to
6 read it, just so we can make sure.

7 The Interim Final Rule as published in
8 The Federal Register, with regards to the
9 applicability, definitions, and data sources are
10 technically feasible, reasonable, cost-effective,
11 and practicable if PHMSA considers the following:
12 Delay compliance with the provisions in the IFR
13 to a date after the date of publication of the
14 Final Rule via enforcement discretion.

15 Does anybody have any suggestions on
16 this language, or any further comments?

17 I assume that some members are --
18 excuse me. Jonathan Wolfgram?

19 MEMBER WOLFGRAM: Thank you, Chair.
20 And Jon Wolfgram, government member of the
21 Minnesota Office of Pipeline Safety.

22 So just as I am looking at the

1 proposed language, and looking at PHMSA's stay of
2 enforcement, I'm just reading the last page of
3 the stay of enforcement that was issued in April
4 21st of 2022.

5 It says PHMSA will continue to enforce
6 the IFR's expanded definition of unusually
7 sensitive area when identifying high-consequence
8 areas subject to integrity management
9 requirements.

10 So is it my understanding that the
11 proposed addition of delayed compliance with
12 provisions would, basically, roll back
13 everything, including to that, you know, what's
14 mentioned in the stay of enforcement?

15 I may not be articulating that very
16 well, but we're, basically, undoing the stay?

17 MR. GALE: I wouldn't articulate --
18 excuse me; John Gale, if I may, Chair?

19 CHAIR BURMAN: Yes, go ahead.

20 MR. GALE: I wouldn't articulate it as
21 undoing the stay, Jonathan, but expanding the
22 stay to cover those aspects. Basically, covering

1 that last sentence, as you referred, right? It's
2 those provisions that are related to integrity
3 management, not those that consider the
4 applicability to gathering and low-stress lines.

5 And one thing the members may
6 consider, you know, maybe -- again, this is the
7 Committee's recommendation -- but something that
8 could be looked at is, you know, some date
9 certain on this, that it doesn't go too far,
10 because we know sometimes the rulemaking process
11 can get a little lengthy. But our goal is to
12 publish this rule early next year. But maybe
13 look at putting some type of date that it can't
14 go past in terms of this extension of the stay of
15 enforcement.

16 CHAIR BURMAN: Thank you.

17 Jonathan, before we move on, do you
18 have any further comment on that?

19 MEMBER WOLFGRAM: Chair Burman, I
20 guess, just as I'm looking through this, I'm
21 thinking through, you know, kind of through the
22 lens of the other state regulatory agencies

1 similar to myself, where there's times where
2 PHMSA can issue a stay, and then, as a state, we
3 have other processes that we have to work through
4 as well. So I'm trying to wrap my head around
5 what that would look like as far as PHMSA's
6 ability to do a stay on pipelines they regulate
7 versus, you know, intrastate pipelines that are
8 subject to state oversight.

9 CHAIR BURMAN: Thank you. Does PHMSA
10 have any response to that before we go to
11 members?

12 MR. MAYBERRY: Diane, just it's been
13 our experience in working with the states that,
14 you know, there's a cooperative relationship, and
15 we understand that they're our agent, but we
16 don't believe that would be an issue with their,
17 you know, being onboard, if you will, with any
18 stay of enforcement.

19 But, anyway, what John had mentioned
20 is just purely to throw up there for the
21 Committee to consider. It's nothing we're
22 promoting. This is your vote language. So

1 definitely we seek your input in it, but, you
2 know, it's whatever the wishes of the Committee
3 are. So thanks.

4 CHAIR BURMAN: Thank you. I'm going
5 to move over to David Barnett.

6 MEMBER BARNETT: Yes, David Barnett,
7 public. Thank you, Chairperson Burman.

8 You know, Graham brought up a good
9 point, and that is -- that I hadn't thought about
10 -- but the discussion on the 12 nautical miles
11 versus what industry had put out, which I believe
12 was the 3-mile recommendation. Given the 12
13 miles and the implementation of the process, I
14 could support this, going along with John Gale's
15 recommendation, or I guess information that we
16 need a date specific time to the Final Rule, I
17 think, in some fashion, given that -- keeping in
18 mind this Committee is only giving
19 recommendations to PHMSA. And we fully
20 understand PHMSA is going to act in their best
21 interest, and our recommendations merely are for
22 guidance in that direction. But I could support

1 that, given a definite engagement date of the
2 enforcement.

3 Thank you.

4 CHAIR BURMAN: Thank you. I
5 appreciate that. I was myself trying to mull
6 over this language and how to address the
7 concerns that both sides have kind of weighed in
8 on.

9 Member Bacon?

10 MEMBER BACON: Yes, just to add to the
11 comments, I would support a date certain as well
12 from -- a date certain from the extension.

13 CHAIR BURMAN: To those folks who had
14 raised concerns with adding in language on the
15 delay, does this -- does adding in a date certain
16 help?

17 Member -- or excuse me -- Chuck?

18 MEMBER LESNIAK: Yes, thanks. Chuck
19 Lesniak, for the public.

20 What are we talking about as the --
21 where would we measure from? A date from when?
22 And is there -- it sounded like I think the

1 publication of the Final Rule was expected next
2 year. I would, personally, I would rather, if
3 we're going to measure from the publication of
4 the Final Rule, I would rather give the date of
5 our vote.

6 Because, as we all know, the
7 publication of the rule can be a moving target.
8 Maybe it's next year. Maybe it's the year after.
9 Maybe it's the year after that.

10 If we're just trying to provide time,
11 more time for the industry to be able to make
12 adjustments and prepare for complying with the
13 Interim Final Rule, which is already in place, is
14 already being enforced, at least on most of the
15 pipeline mileage that's subject to it, and we're
16 talking about rolling that back, you know, my
17 suggestion would be 12 months from today, the
18 date of our vote.

19 And that's my initial thought.

20 CHAIR BURMAN: And thank you for that.

21 And I do think someone needs to mute if they're
22 not speaking.

1 I'm going to go to Bill, and then
2 Member Bacon. Thank you. Bill from Pipeline
3 Safety Trust.

4 MEMBER CARAM: Thank you, Chairwoman
5 Burman. Bill Caram, representing the public.

6 Yes, well, putting a rule in -- excuse
7 me -- a date in there certainly helps the not
8 having the date. I still could not support
9 extending this stay of enforcement or enforcement
10 discretion to all transmission lines and beyond
11 where the existing stay is right now.

12 CHAIR BURMAN: Thank you. Can I ask
13 you a question? I don't mean to put you on the
14 spot, but what if PHMSA was considering a delay
15 because they felt that it was reasonable, and it
16 on its face was reasonable for a delay of
17 compliance? We're going to duck for a moment an
18 actual date, but just if it was in their
19 determination a reasonable delay of compliance.
20 Would you be okay with that?

21 MEMBER CARAM: I mean, if I'm
22 understanding this right, this is, this IFR is

1 already in effect. And so hypothetically PHMSA
2 is looking at rolling back an existing rule?

3 CHAIR BURMAN: I would actually turn
4 to PHMSA on that because I don't know if they're
5 looking at rolling it back. I think they're
6 trying to, in terms of the understanding of, you
7 know, this is why the LPAC meeting got set up for
8 looking at hearing from folks, addressing some of
9 the process issues on the front end, and then
10 during the stay of enforcement. And so now, I
11 think we're kind of, you know, in the status quo,
12 and so trying to figure out next steps forward,
13 and then getting Committee input on what that
14 would look like.

15 So to the extent that it would be the
16 Interim Final Rule as published in The Federal
17 Register would be considered technically
18 feasible, reasonable, cost-effective, and
19 practicable if PHMSA also has this understanding
20 that, to the extent that there's a reasonableness
21 to delay compliance, that they would do that, as
22 it affects their enforcement discretion.

1 I think that's kind of trying to
2 figure out that language without overstepping
3 what we can do legally, but also taking into
4 consideration the need for a date certain, as
5 well as looking at how to address the issues on
6 both sides the people have raised.

7 I do see Counsel Robert Ross has his
8 hand up. So maybe he has some thoughts. And
9 then I'll come back to you, Bill, if you still
10 have some comments.

11 Thanks.

12 MEMBER CARAM: Great.

13 MR. ROSS: Thank you, Chair. Yes, I
14 think thing to kind of sharpen the distinction
15 like at issue here is that we have, like on the
16 one hand, we have the rule and the regulatory
17 amendments introduced by the IFR that were
18 effective earlier this year. That is to say, if
19 one were to look at the e-CFR maintained by the
20 GPO, you're going to see those regulatory
21 provisions.

22 What I understand the Committee to be

1 considering right now is a recommendation to
2 PHMSA that, notwithstanding that those are the
3 requirements on the books, that PHMSA will
4 exercise in its inherent discretion, like
5 enforcement discretion, to say that we are not
6 going to chase after people for some period of
7 time certain.

8 So I think that, and I hope that, to
9 Member Caram, I hope that addresses your concern
10 about, for instance, rolling back the existing
11 regs. You know, like an enforcement discretion
12 would not have like such in fact. What it would
13 mean is that we would not be chasing after
14 somehow, you know, like stakeholders or, you
15 know, like pipeline entities, for the duration of
16 that enforcement discretion.

17 I also note, too, that what could be
18 helpful for PHMSA, you know, as it looks at this
19 language, there's a language here on the timing.
20 You know, if that could, that statement with
21 respect to the target date, if that could be kind
22 of placed in close proximity to what it

1 correlates to; namely, either the date that
2 specifies the duration of the enforcement
3 discretion or the publication of the subsequent
4 Final Rule in this proceeding.

5 CHAIR BURMAN: Thank you for that
6 clarification. Does anyone have any thoughts or
7 comments?

8 Member Bacon?

9 MEMBER BACON: Thank you, Mr. Ross.
10 How would we write that into this
11 voting provision? Is there a suggestion in terms
12 of modifying this voting provision?

13 CHAIR BURMAN: Counsel Ross?

14 MR. ROSS: Thank you, Chair. I submit
15 that, you know, like for consideration by the
16 Committee. If the intent is to identify the
17 target date for the publication of the Final
18 Rule, that language specifying a particular
19 target date just be moved, you know, like,
20 basically, right around the language of Final
21 Rule. However, if it's like the date of the
22 duration of an enforcement discretion which may

1 extend beyond a Final Rule, then that would, you
2 know, that should be kind of put like, basically,
3 right next to the enforcement discussion
4 language, you know, with perhaps the removal of a
5 comma.

6 And I apologize, I hesitate to provide
7 the specific language to the Committee because
8 this, once again, is, you know, the
9 recommendation of the Committee. But, PHMSA just
10 wants to be crystal clear as to what, you know,
11 the Committee's understanding is and what the
12 recommendation is to be considered.

13 CHAIR BURMAN: Thank you. I see,
14 Bill, you have your hand up, from Pipeline Safety
15 Trust.

16 MEMBER CARAM: Thank you, Chairwoman
17 Burman. Bill Caram, representing the public.

18 I'm wondering if there's an
19 opportunity for compromise here, for it to not --
20 this delay in compliance, instead of it applying
21 to all covered lines, maybe just talking about
22 the gathering lines that are already under the

1 stay of enforcement, and maybe the lines that are
2 between the 3 and 12 miles that Member Bacon
3 brought up earlier as something the industry
4 didn't foresee. So making a carve-out for those
5 lines. The other lines, industry has had six-
6 plus years knowing that this is coming and maybe
7 not offering that delay in compliance to those
8 lines.

9 CHAIR BURMAN: Thank you, Bill. Does
10 anyone have any thoughts on Bill's compromise
11 language. David Barnett?

12 MEMBER BARNETT: Thank you,
13 Chairperson Burman. Dave Barnett, with the
14 public.

15 So I think that we're hitting real
16 close to where I think we're kind of coming
17 together on this language. I don't think delayed
18 compliance is the right thing. I think this
19 Committee should go on record, on record of
20 recommending immediate compliance, as soon as
21 practicable, and leaving the lack of enforcement
22 discretion in there, or the enforcement at a

1 later date.

2 I mean, we all recommend that, I think
3 we all feel like the folks could start getting
4 compliant right away, not delay compliance. But
5 there's a window here that would give an
6 opportunity to move into this compliance, which
7 we know that many in the industry, I'm sure, is
8 going to need to get compliant. And it says, you
9 know, the provisions in the IFR, to a date after
10 the date -- we could say, to a date 30 days after
11 the date of the publication of the Final Rule via
12 enforcement discretion, but no more than 12
13 months from the date of this meeting.

14 So now, I know that brings an issue up
15 if the Final Rule is not finished, I guess, in 12
16 months, but I would like someone from the legal
17 department at PHMSA to address that. Is that
18 something that we could write in there?

19 I think we want to go on record in
20 recommending compliance, but also giving leeway
21 for enforcement, is my point.

22 CHAIR BURMAN: So, thank you. So

1 before we have PHMSA comment on that, why don't
2 we go to some of the other members who may be
3 able to clarify as well?

4 So we'll go to Member Lyon, and then
5 we'll go to Chuck. So thanks.

6 MEMBER LYON: Yes, Shawn Lyon,
7 industry rep. I want to go back to what Bill
8 mentioned as far as maybe a compromise here. I
9 think the issue is really a scope thing of just
10 giving more time, because that just came out.
11 And I think what Bill proposed there, if we could
12 put that in writing, or somehow modify on the 3
13 to 12 and the gathering, I think that could
14 really measure -- because I think, directionally,
15 the industry is supportive. It's just the scope
16 change that was really led to because of the
17 process. I think that could help us, as we put a
18 vote to this.

19 CHAIR BURMAN: Thank you for that.
20 And I'm going to go to Chuck, and then we'll open
21 it back up after PHMSA talks. So thank you.

22 Chuck?

1 MEMBER LESNIAK: Thank you. Chuck
2 Lesniak, for the public.

3 Yes, I'd be -- I can, I think I can
4 live with this language where PHMSA is exercising
5 enforcement discretion for, in the language like
6 Bill was suggesting, and for 12 months out. I
7 think that seems like a reasonable compromise,
8 and I think provides the industry some cushion
9 there.

10 It's already within PHMSA's discretion
11 in a way. And I was certainly uncomfortable with,
12 you know, not complying with the rule,
13 recommending not complying with a rule that
14 already exists. So that puts us in a bad, a bad
15 place. But I'm a little more comfortable with
16 this.

17 CHAIR BURMAN: Okay. Thank you. Does
18 anyone else have any more comments or thoughts?

19 I don't see any hands raised. So I'm
20 going to ask PHMSA, especially I think PHMSA's
21 counsel. I think there was some questions raised
22 on the appropriate, legal appropriateness of

1 doing this.

2 Counsel Ross?

3 MR. ROSS: Yes. I apologize, Chair.

4 And I apologize for being dense, you know, with
5 respect to the last statement about the legal
6 ability to do this. I just want to -- I'm not
7 quite certain what you mean by that. Would you
8 mind explaining --

9 CHAIR BURMAN: Well, I think we're
10 just trying to make sure that, by adding this
11 language, that there is no concern. Obviously,
12 this is the Committee would be voting for this
13 from an advisory perspective for PHMSA to
14 consider.

15 But, to the extent that the language
16 is written, and if it was then perceived by
17 Counsel's Office to not be legally able to be
18 done, we want to make sure that we are
19 appropriately presenting language for a vote.

20 MR. ROSS: All right. Thank you very
21 much, Chair.

22 So what I would submit, and in my

1 view, as PHMSA would consider this
2 recommendation, we would also not just be looking
3 at what's on the page in front of us, but we
4 would have the benefit of the transcript, and so
5 forth, you know, like to inform our decision
6 making and the precise language, you know, like
7 the people who decide the issue.

8 But what I would submit is, you know,
9 with respect to the language, you know, that's
10 currently here, I would, the timely language, I
11 would submit that that should probably move --

12 (Pause.)

13 MR. ROSS: Yes, I mean, what I would
14 say is something along the lines of, you know,
15 like, anyway, through the earlier of, you know,
16 date of publication of the Final Rule, you know,
17 like or 8/17/2023.

18 CHAIR BURMAN: Okay. So I'm going to
19 read this. The Interim Final Rule, as published
20 in the Federal Register, with regards to the
21 applicability, definitions, and data sources are
22 technically feasible, reasonable, cost-effective,

1 and practicable if PHMSA consider the following.

2 And then, in quotes, with respect to
3 regulated rural gathering lines, rural low-stress
4 pipelines, and certain coastal waters between 3
5 and 12 nautical miles, PHMSA issue an enforcement
6 discretion for the requirements in the IFR
7 through a date after the date of publication of
8 the Final Rule, but no later than 8/17/2023.

9 MR. ROSS: So if I may, Chair, is the
10 intention of the Committee, you know, for the
11 purpose of this recommendation, that the
12 enforcement discretion would extend beyond the
13 date of publication of the Final Rule or that the
14 8/17/2023 would be, you know, like if the
15 publication of the Final Rule happens after
16 8/17/2023, the 8/17/2023 would be the end form of
17 the enforcement discretion period?

18 CHAIR BURMAN: So I'll open that up to
19 the Committee members, if anyone has any thoughts.

20 Chuck?

21 MEMBER LESNIAK: That's how I intended
22 it when I was suggesting that, is that that would

1 have been, the 12 months from now would be when
2 our recommendation for enforcement discretion
3 would end.

4 CHAIR BURMAN: Does anyone have any
5 thoughts on that?

6 As Chair, I don't really have, feel I
7 have a full handle on where folks are right now.
8 So I welcome anyone giving their thoughts on how
9 they see this.

10 Member Barnett?

11 MEMBER BARNETT: Yes, Dave Barnett,
12 with the public.

13 I like your reading. I think it spells
14 out clearly what I would like to see in it. And,
15 yes, the one year from today date certain of
16 enforcement, you know, PHMSA always has
17 discretion, I think, on enforcement, and I've seen
18 them exercise it. So this is merely a
19 recommendation to them, and I feel I know they're
20 going to do the right thing.

21 But I'm still, I'm still hung on this
22 delayed compliance. When you read your reading,

1 was that still in there? Because I --

2 CHAIR BURMAN: No. No, it wasn't.

3 MEMBER BARNETT: Okay.

4 CHAIR BURMAN: I'm going to --

5 MEMBER BARNETT: Okay.

6 CHAIR BURMAN: You're right.

7 MEMBER BARNETT: Thank you.

8 CHAIR BURMAN: The delayed compliance
9 came out, but, like I said, as Chair, I'm not
10 necessarily sure right now what the pulse of the
11 members are feeling on this. So I do welcome
12 people to during this discussion portion weigh in.

13 Graham, I see your hand is raised.

14 MEMBER BACON: Yes, Graham Bacon,
15 member of industry.

16 At this point, it just fell off my
17 screen, but, yes, I think I would be willing to
18 support this with a couple of other items that I
19 would request.

20 I'm not sure how to get this in the
21 record, but I used the 3 mile and 12 mile,
22 nautical mile, as an example of how things can

1 change between -- how things can catch an operator
2 unexpected when it enters an Interim Final Rule
3 without a proposed rulemaking process. And again,
4 to emphasize that PHMSA should encourage --
5 encourage PHMSA to use the rulemaking process.

6 But when I used it as an example, I'm
7 not -- there may be other examples of where
8 something showed up -- maybe it was in how all of
9 the data that was used by PHMSA to define a USA
10 may have changed the definition that an operator
11 was looking at; that those of us on this Committee
12 only represent a fraction of the industry and
13 there may be certain operators that have specific
14 issues where the Interim Final Rule made it
15 difficult to, or impractical to, comply within a
16 certain deadline.

17 And I'd just ask that PHMSA use that
18 enforcement discretion on other areas which may
19 have been similar to that 3- and 12-nautical-mile
20 example. It may be -- what I'm trying to refer
21 to, there's maybe other examples of that that we
22 just haven't mentioned, and would ask PHMSA to

1 exercise that similar enforcement discretion, if
2 an operator can show good faith as to why it took
3 longer to comply with the rule.

4 I have no idea how you would write that
5 in there, but more so just to say that, in my
6 comments, as direction to PHMSA to use that
7 enforcement discretion judiciously.

8 CHAIR BURMAN: Thank you. Does anyone
9 else have any other comments or questions? It is
10 helpful if we hear from folks, so we get a general
11 sense.

12 Okay. PHMSA, I'm going to turn to you.
13 Hearing what some of the comments are in terms of
14 how to try to capture this, do you have any
15 thoughts? Because, obviously, this is about the
16 PHMSA and what you may be doing from an
17 enforcement perspective, and how to capture
18 working with all folks, not just the LPAC members,
19 but everyone.

20 MR. GALE: John Gale, Chair, if I may?

21 You know, regarding what Member Bacon
22 just said, as he noted, I think it's going to be

1 tough to put that language into what we have in
2 front of us here. If there's recommendations, of
3 course, you know, the staff can work on it.

4 But, I mean, you know, obviously,
5 there's still an open comment period, or folks can
6 submit comments if they want to get more specific.
7 But I think it can be duly noted in the record of
8 what Member Bacon said, and we can, you know, look
9 at that as we move forward in the development of
10 the Final Rule, and in the development and the
11 exercise of that discretion, if it's so exercised.

12 So, again, I'm not sure how we could
13 work that language in there, but we can make sure
14 that it is noted in the record, and if you want it
15 to be supplemented with additional comments, if
16 they want to get more specific to those areas that
17 they would ask for, like for those areas to be
18 covered.

19 But it appears like the language that
20 is in front of us, you know, articulates the rest
21 of the concerns that have been expressed by the
22 members at this point.

1 CHAIR BURMAN: Okay. Great. And I
2 just do want to state for the record -- this is
3 Chair Burman -- you know, I do recognize the
4 importance of this Advisory Committee, and the
5 role that we have really is to review PHMSA's
6 proposed regulatory initiatives to ensure the
7 technical feasibility, reasonableness, cost-
8 effectiveness, and practicability of each
9 proposal. And the Committee is also tasked with
10 evaluating a cost-benefit analysis and risk
11 assessment.

12 I do hear loud and clear the need for
13 engagement with the Committee, and obviously,
14 PHMSA shares the same goal as we all do in
15 advancing pipeline safety. To the extent that the
16 record reflects that, and PHMSA strongly takes
17 into consideration all that they've heard today,
18 not just on one side, but all sides from a
19 collaborative perspective, trying to ensure that
20 there's a reasonable regulatory process, as well
21 as substantively implementation of that, and then,
22 when we get to enforcement, the appropriateness of

1 that.

2 I do see -- I'm going to just read
3 again what's out here and see if anyone has any
4 further discussion, and then, perhaps, for that
5 time if we take a vote.

6 The Interim Final Rule as published in
7 The Federal Register, with regards to the
8 applicability, definitions, and data sources are
9 technically feasible, reasonable, cost-effective,
10 and practicable if PHMSA consider the following.

11 And this is a bullet: with respect to
12 regulated rural gathering lines, rural low-stress
13 pipelines, and certain coastal waters between the
14 3-nautical-mile line and the 12-nautical-mile
15 line, PHMSA exercise enforcement discretion for
16 the requirements in the IFR through the date of
17 publication of the Final Rule or 8/17/2023,
18 whichever is earlier.

19 With that, I'm going to take a pause to
20 see if anyone has any comments, questions, or
21 further clarification.

22 (Pause.)

1 CHAIR BURMAN: I don't see any hands
2 raised. I do see -- I think there is something in
3 the chat, but I'm not sure.

4 MR. GALE: Chair, that's simply just
5 the language for the vote.

6 CHAIR BURMAN: Okay.

7 MR. GALE: So in case some members
8 can't see it.

9 CHAIR BURMAN: All right. Okay. Thank
10 you so much. That's helpful.

11 And I do see Member Barnett has his
12 hand raised. Thank you, Member Barnett.

13 MEMBER BARNETT: Thank you, Chairman
14 Burman. David Barnett, representing the public.

15 I like the language. I can support
16 this language.

17 CHAIR BURMAN: Thank you very much.

18 And does anybody else have any other
19 questions or comments? Bill?

20 MEMBER CARAM: Bill Caram, representing
21 the public.

22 Echo what Dave said. I like the

1 language and can support it.

2 CHAIR BURMAN: All right. I do
3 recognize that we have taken earlier a 30-minute
4 break, so that industry could collaborate
5 together, as well as others, to the extent that
6 they wished to.

7 I do want to take pause because I also
8 want to make sure that folks don't feel that
9 they're -- that a vote is being pushed upon them.
10 And so just taking a pause. If folks need to take
11 a quick, 10-minute break to gather as they may
12 wish before we actually perhaps take a vote? Or
13 are people ready to do that now?

14 So I'm not hearing anybody desiring to
15 take a break. Just giving people a moment before
16 we -- Todd?

17 MEMBER DENTON: Thanks, Chair. Todd
18 Denton, industry. I think we're good. I think
19 we're ready to vote.

20 CHAIR BURMAN: Okay. Great. Thank you
21 so much. I'm going to ask, PHMSA, do you have any
22 further comments?

1 And, Todd, if you can just put your
2 hand down, that would be great.

3 Do you have any further comments?

4 MR. GALE: No, Chair.

5 CHAIR BURMAN: Okay. Great.

6 MR. GALE: I'm just very pleased with
7 the work of the Committee so far. So thank you.

8 CHAIR BURMAN: Thank you. Right now,
9 I'm going to ask, I'm going to call for a vote,
10 but -- excuse me -- I need somebody to make a
11 motion. We'll make a motion. Then, somebody
12 perhaps will second it, and then I'll open it to
13 see if anyone wants to discuss. And then we will
14 call for the vote.

15 So does anyone want to make the motion?
16 You do have to read the slide. Member Barnett?

17 MEMBER BARNETT: Yes, thank you,
18 Chairman Burman. Dave Barnett, representing the
19 public.

20 I will make the motion to take a vote
21 by the Committee to read as follows. The Interim
22 Final Rule as published in The Federal Register,

1 with regards to the applicability, definitions,
2 and data sources are technically feasible,
3 reasonable, cost-effective, and practicable if
4 PHMSA consider the following.

5 With respect to regulated rural
6 gathering lines, rural low-stress pipelines, and
7 certain coastal waters between the 3-nautical-mile
8 line and the 12-nautical-mile line, PHMSA exercise
9 enforcement discretion for the requirements in the
10 IFR through the date of the publication of the
11 Final Rule or 8/17 of '23, whichever is earlier.

12 CHAIR BURMAN: Thank you. Is there a
13 second?

14 MEMBER LYON: This is Shawn Lyon. I
15 second that.

16 CHAIR BURMAN: Thank you so much.

17 Any discussion?

18 Seeing no hands or hearing no one, I'm
19 going to call for the vote. Can I turn to PHMSA
20 to do the roll call for the vote?

21 MR. SATTERTHWAITE: Yes. This is
22 Cameron Satterthwaite, PHMSA, and I will do the --

1 I'll call on each member. All you have to do is
2 give a simple yea or nay. And we will just go
3 ahead and fire into it.

4 Lanny Armstrong?

5 David Barnett?

6 MEMBER BARNETT: Yea.

7 MR. SATTERTHWAITE: Chuck Lesniak?

8 MEMBER LESNIAK: Yes.

9 MR. SATTERTHWAITE: Sarah Magruder

10 Lyle?

11 MEMBER MAGRUDER LYLE: Yes.

12 MR. SATTERTHWAITE: Bill Caram?

13 MEMBER CARAM: Yes.

14 MR. SATTERTHWAITE: Graham Bacon?

15 MEMBER BACON: Yes.

16 MR. SATTERTHWAITE: Jerry Barnhill?

17 Angela Kolar?

18 MEMBER KOLAR: Yes.

19 MR. SATTERTHWAITE: Todd Denton?

20 MEMBER DENTON: Yes.

21 MR. SATTERTHWAITE: Shawn Lyon?

22 MEMBER LYON: Yes.

1 MR. SATTERTHWAITE: Jeff Lance?

2 Jon Wolfgram?

3 MEMBER WOLFGRAM: Yes.

4 MR. SATTERTHWAITE: And Diane Burman?

5 CHAIR BURMAN: Yes.

6 MR. SATTERTHWAITE: It is unanimous.

7 The motion carries.

8 CHAIR BURMAN: Thank you so much.

9 I'm now going to turn to PHMSA for the
10 next portion of the meeting.

11 CHAIR BURMAN: Sure. Thank you, Madam
12 Chair.

13 We just actually have one last vote.
14 This is regarding the Committee's report that's
15 required by the statute. The language is in front
16 of the Committee, as we've discussed this before
17 in joint meetings with the GPAC and the LPAC
18 together.

19 It just notes that the transcript of
20 this meeting, duly recorded and accurately
21 described, together with the presentation slides
22 documenting the Committee's votes during this

1 meeting, represents the report of this proceeding,
2 as required by the statute.

3 So, Madam Chair, if we can just simply
4 have a vote on this matter as well, we'd
5 appreciate that.

6 CHAIR BURMAN: Great. And I can't see
7 it, the language, because someone does have to
8 actually read it.

9 MR. GALE: Yes.

10 CHAIR BURMAN: So can I have a member
11 make a motion?

12 And if you can't see it on the slide,
13 if you can put it into the chat, so that whoever
14 is making the motion can read it? Graham?

15 MEMBER BACON: Graham Bacon, industry.

16 Move that the transcript of this
17 meeting, duly recorded and accurately transcribed,
18 together with the presentation slides documenting
19 the Committee's votes during this meeting,
20 represent the report of this proceeding.

21 CHAIR BURMAN: Great.

22 Do I have a second?

1 MEMBER BARNETT: Second.

2 CHAIR BURMAN: Who was that?

3 MEMBER BARNETT: Dave Barnett.

4 CHAIR BURMAN: Thank you so much. Any
5 discussion?

6 Hearing none, can I have a roll call?
7 Or can I do this unanimously?

8 MR. SATTERTHWAITE: I can do a roll
9 call real quick --

10 CHAIR BURMAN: Okay. Thanks.

11 MR. SATTERTHWAITE: -- if you don't
12 mind.

13 CHAIR BURMAN: Yes, great.

14 MR. SATTERTHWAITE: Lanny Armstrong?
15 David Barnett?

16 MEMBER BARNETT: Yes.

17 MR. SATTERTHWAITE: Chuck Lesniak?

18 MEMBER LESNIAK: Yes.

19 MR. SATTERTHWAITE: Sarah Magruder Lyle?

20 MEMBER MAGRUDER LYLE: Yes.

21 MR. SATTERTHWAITE: Sorry about that.

22 My computer decided to take a vacation for a

1 minute. It will just be one second, and I will
2 adjust accordingly.

3 I left off with Sarah Magruder Lyle.

4 Bill Caram?

5 MEMBER CARAM: Yes.

6 MR. SATTERTHWAITE: Graham Bacon?

7 MEMBER BACON: Yes.

8 MR. SATTERTHWAITE: Jerry Barnhill?

9 Angela Kolar?

10 MEMBER KOLAR: Yes.

11 MR. SATTERTHWAITE: Todd Denton?

12 MEMBER DENTON: Yes.

13 MR. SATTERTHWAITE: Shawn Lyon?

14 MEMBER LYON: Yes.

15 MR. SATTERTHWAITE: Jeff Lance?

16 Jon Wolfgram?

17 MEMBER WOLFGRAM: Yes.

18 MR. SATTERTHWAITE: And Diane Burman?

19 CHAIR BURMAN: Yes.

20 MR. SATTERTHWAITE: It is unanimous.

21 Thank you.

22 CHAIR BURMAN: Okay. Thank you so

1 much. Next, I'd like to turn back to DFO Alan
2 Mayberry for some closing remarks.

3 MR. MAYBERRY: I just wanted to again
4 express my appreciation -- thank you, Diane -- but
5 my appreciation to the Committee for coming
6 together today; taking the time to meet on this
7 important rule.

8 I must say I'm very impressed with the
9 outcome. You took a very controversial topic
10 going into it, but you were able to come to
11 consensus. And I'll tell you, it's just one of
12 the rewarding parts of my job, of our job, here at
13 PHMSA to see how this Committee works, worked
14 together to come to that closure, you know, and to
15 develop a recommendation that we'll take forward.
16 So thank you very much for that.

17 And we have our marching orders.
18 They're quite clear.

19 I just wanted to say one other comment
20 just to give my appreciation to Sayler Palabrica,
21 who briefed us on this topic today. Sayler, you
22 did an outstanding job. Thank you so much.

1 And, of course, for all those involved
2 who supported us as well. And, Diane, awesome job
3 as Chair today. Thank you so much. So with that
4 I will turn it back to you.

5 But, again, thank you to the Committee,
6 and we look forward to working with you again on
7 the next challenge we have, as we get together in
8 the coming months on other policy matters, and the
9 like.

10 So with that, back to you, Diane.
11 Thank you.

12 CHAIR BURMAN: Thank you so much.

13 I want to really thank you, Alan, and
14 your team, all of PHMSA's staff, those who spoke
15 today and those who worked really hard behind the
16 scenes.

17 I also want to thank all of the members
18 and the public for your engagement.

19 I really do look forward to leaning in
20 more with LPAC, as well as my other role on GPAC.
21 I think we share a common goal, again, of
22 advancing pipeline safety. And I'd really like us

1 to collaboratively work together and raise our
2 voices in a way that makes forward progress on the
3 things that we care dearly about.

4 With that, seeing that there is no
5 other items for the agenda, I'm going to adjourn
6 the meeting, and I thank you all. The meeting is
7 adjourned.

8 (Whereupon, the above-entitled matter
9 went off the record at 2:23 p.m.)
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Date: 08-17-22

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