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The American Petroleum Institute (API) submits these comments in response to OSHA's August 23, 2016 request for comments on three draft PSM-related guidance documents:

- Process Safety Management (PSM) Explosive and Pyrotechnics Manufacturing Guidelines for Compliance
- PSM Small Business Guidelines for Compliance
- PSM Storage Facilities Guidelines for Compliance (hereinafter referred to as the "guidance documents" or "documents").

API represents over 650 oil and natural gas companies, leaders of a technology-driven industry that supplies most of America's energy, supports more than 9.8 million jobs and 8 percent of the U.S. economy and, since 2000, has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives. API members own and operate facilities throughout the country which follow PSM and can benefit from the recent guidance documents.

API and its members commend the initiative by OSHA to prepare these guidance documents. Per OSHA's request, the three attached tables to this letter include specific comments on each guidance document which we think will make the guidance documents more effective.

**General Comments:**

We are concerned that some areas of the guidance documents extend beyond the current PSM regulations as shown in our attached comments. This is concerning in that these expansions can be viewed as new requirements or, at a minimum, confuse the user as to what is being suggested in the guidance and what is actually required by law.

Each document begins with the statement that the guidance serves as a companion to the PSM Guide (OSHA 3132). It is unclear whether the "companion" nature of the document may constitute legal obligation to comply with the recommendations in the document; therefore, it is prudent to align all recommendations with the associated PSM guidance document since in several instances, the language in the guidance

document expands and/or contradicts the language in PSM regulations. These situations only serve to confuse, not assist the regulated entities in regulatory compliance.

There are many instances in the documents where OSHA uses the word “must” as part of the guidance OSHA is providing to the users. API is concerned about the use of “must” in that it is not a term normally used by U.S. standards developing organizations. Rather, API recommends using the following expressions of provisions with the associated meanings in these guidance documents:

- Shall – verbal form to express requirements
- Should – verbal form to express recommendations
- May – verbal form to express permission
- Can – verbal form to express possibility or capability

API appreciates OSHA’s efforts to develop guidance documents for the regulated community. These documents stand to assist with regulatory compliance and may prove to be even more helpful if the API comments are taken into account as the comments will help clarify the expectations of the users.



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