



AMERICAN PETROLEUM INSTITUTE

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OSHA Docket Office
Docket No. 2012-0033
U.S. Department of Labor, Room N-2625
200 Constitution Avenue N.W.
Washington, DC 20210

RE: Expert Forum on the Use of Performance-Based Regulatory Models in the U.S. Oil and Gas Industry, Offshore and Onshore

API appreciated the opportunity to present at the Expert Forum on the Use of Performance-Based Regulatory Models in the U.S. Oil and Gas Industry, Offshore and Onshore, and would like to take the opportunity to provide the following information to the open docket on the Forum:

Performance-based regulatory models allow the regulated community to use flexibility and innovation in meeting regulations. API and the oil and natural gas industry are also appreciative of the approach espoused by several of the participating agencies that their regulations are a mix of performance-based and more prescriptive-based regulations which serve to improve safety in the oil and natural gas industry.

In Dr. Michael's presentation, a reference was made regarding the exploration and production's fatality rate. As has been noted by the Bureau of Labor Statistics (BLS), fatalities are tragic but rare events, and our industry is committed to a goal of zero incidents. However, when it comes to measuring safety performance, injuries and illnesses are a better statistic to use. Unlike fatalities, injuries and illnesses provide a data set that provides better accuracy in drawing statistical conclusions.

The BLS has used sample statistics and estimation methodology to estimate occupational injuries and illnesses with considerable accuracy for decades. A well-constructed sample and good methodology can provide important information about the safety record of an entire industry. Therefore, based on BLS data, the U.S. oil and natural gas industry is safer than the private sector as a whole. API believes that drawing statistical conclusions based on injury and illness rates is a sound practice.

In Dr. Hopkins' presentation, a comment was made describing API's standards as being "lowest common denominator" standards. This is an inaccurate statement. API's standards facilitate the availability of proven, sound engineering and operating practices throughout the world. API's standards are the most widely cited and used standards on a global basis for our industry; see International Oil and Gas Producers Report No. 426, *Regulator's Use of Standards*, March 2010. In addition, under the OSHA Process Safety Management regulation, API's mechanical integrity standards are acknowledged as Recognized and Generally Accepted Good Engineering Practice, or RAGAGEP – obviously not "lowest common denominator" documents.

For more than 75 years, API has led the development of standards for the petroleum, petrochemical and natural gas industries. These documents, which currently number over 600, are developed under an American National Standards Institute (ANSI) accredited process, following ANSI's essential requirements of openness, balance, consensus, and due process, and are updated on a regular basis. API standards are developed by committees made up of member and nonmember companies of API, including representatives of state and federal agencies. Furthermore, prior to final publication, API standards are available for public comment. It is because of this robust process that over 100 API standards are cited in U.S. Federal Regulations – including by the five agencies participating in the Expert Forum.

During the Forum there were several valuable exchanges about how best to improve safety. API certainly supports and encourages industry efforts to share lessons learned from incidents and near misses. This sharing already occurs in a number of ways such as via industry conferences, workshops, regional meetings, incident databases, and other avenues that enable companies to learn from one another.

There was also some discussion about standardized risk assessments. Since each site is different, a standardized, one-size fits-all approach to addressing risk is not the best method to reduce risk or mitigate hazards. Rather, sites need to continue to assess their specific risks based on their particular circumstances and enhance their safety programs as part of their continuous improvement processes.

API would like to take this opportunity to include in the comments to the Docket our previous submittals in response to Executive Order 13563, Improving Regulation and Regulatory Review. API provided comments to the Department of the Interior on March 28, 2011 (Docket DOI-2011-0001, included) and to the Environmental Protection Agency on June 27, 2011 (Docket EPA-HQ-OA-2011-0156, included). API considers it a good practice for agencies to regularly review their regulations, much like API reviews its standards, and wishes to include these comments to this docket as Executive Order 13563 is cited as the impetus for the Expert Forum.

In closing, as Mr. Miller stated during his presentation, included, API was pleased to present and participate in the Expert Forum on the Use of Performance-Based Regulatory Models in the U.S. Oil and Gas Industry, Offshore and Onshore. API was encouraged by the collaborative approach demonstrated by the five participating agencies and the Office of Management and Budget, Office of Information and Regulatory Affairs, and we would expect that any proposed regulatory revisions would follow the normal administrative process, thereby allowing for appropriate stakeholder involvement. API looks forward to a continued discussion as we all strive to improve safety in the vital oil and natural gas industry.

Thank you for the opportunity to provide these comments to the Docket, and should you require any additional information, please contact David Miller, Director, API Standards, at 202-682-8159, or miller@api.org.

Sincerely,



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