August 23, 2004

Docket Management Facility
Department of Transportation,
400 Seventh Street, SW.
Nassif Building, Room PL–401
Washington, DC 20590–001.

Subject:     Comments on Docket No RSPA-03-15852; Notice 1 (RIN 2137-AD96)

The Pipeline Safety Trust would like to make the following comments on the Research and Special Programs Administration’s Notice of Proposed Rulemaking entitled: “Pipeline Safety: Public Education Programs for Hazardous Liquid and Gas Pipeline Operators.”

API’s RP 1162 is not a complete Public Education Program
We believe that API RP 1162 is only a small step in the right direction regarding pipeline safety public education, and needs to be expanded and clarified considerably. Unfortunately, as the Federal Register announcement points out, “The standard was developed by a pipeline industry group,” and because of this there is a major emphasis on what pipeline companies want to tell affected parties so those parties will help protect their pipelines. Using potentially affected parties to help watchdog pipeline right-of-ways and report problems is a great idea, but it is nowhere near a complete education program that would help make pipelines safer.

Rule Needs to be Expanded to Include All Interested Parties
After much time and expense developing this rule it seems to not even meet the requirements of the new language that is proposed for sections 195.440 and 192.616 of the CFR. The new language would read: “Each pipeline operator shall establish a continuing public education program to enable all interested and affected parties to recognize a hazardous liquid/gas pipeline emergency.” We totally support this language, but no where in API RP1162 is there any mention of providing information to “all interested parties” to help them recognize pipeline emergencies. RP1162 focuses strictly on affected parties within close proximity to pipelines, and ignores the benefits of providing information to all interested parties who may also be able to provide an important role in helping to recognize pipeline emergencies. The extremely narrow definition of affected parties in RP1162 needs to be broadened to include all interested parties since it has become clear from recent pipeline failures that the affected population often covers large regions, not just adjacent dwellings. This serious shortcoming of RP1162 needs to be addressed before it is turned into a rule.
**Added Information Needed**

For example, according to testimony by the Inspector General of the Department of Transportation given in June, with only 16% of the required liquid transmission pipeline mileage tested over 1200 "integrity threats" requiring immediate repair were found. Extrapolating this to the rest of the liquid transmission pipeline mileage indicates that there may be more than 7500 "integrity threats" needing immediate repair. Because of the narrow definition of High Consequence Areas, many of them will not be found in a planned methodical fashion by inspection and repair. Instead, they will be discovered the hard way -- by endangering communities with pipeline failures and abruptly depriving downstream communities of their energy supplies. We believe that such “integrity threats” requiring immediate repair constitute a pipeline emergency. We ask that pipeline companies be required to report to the interested public some of the same information they are required to report to OPS (or OPS should make that information easily available to the public). In so doing we believe interested parties may be able to help identify and prevent these emergencies. Information like that required by 49 CFR 192.945 should be included in the rule:

1. Number of pipeline miles inspected versus program requirements.
2. Number of immediate repairs completed as a result of the integrity management inspection program.
3. Number of scheduled repairs completed as a result of the integrity management program.
4. Number of leaks, failures, and incidents (classified by cause).

To make this information even more useful we also ask that the following be added to the already required information above:

1. Number of “integrity threats” in need of immediate repair found as a result of the integrity management inspection program.
2. Number of pipeline miles inspected versus total pipeline miles

Other information that would be valuable to help all affected parties understand and evaluate pipeline safety would be:

- frequency and method of periodic testing (so those pipeline companies doing extensive testing -- and those doing little -- could be identified)
- the leak detection system(s) used and its sensitivity
- over-pressurization incidents and the means used to detect over-pressurization
- pipeline segment diameter, construction material, age, wall thickness, burial depth, mileage, coating type, maximum allowable operating pressure, class, and which segments are and are not within High Consequence or Unusually Sensitive Areas.
- average distance(s) between shut-off valves, which reflects the amount that can be released at the time of an accident, and valve types (i.e., automatic or manual).
• history of Corrective Action Orders, status, and fines.

Need for more information for “Local Public Officials”
There also seems to have been an oversight within the information required to be given to different audiences in RP1162. Unlike affected parties and emergency responders there is not an awareness objective for “Local Public Officials” to receive information regarding:
• how to recognize and respond to a pipeline emergency
• how to assist in preventing pipeline emergencies through safe digging and reporting unsafe/Unauthorized digs
• how individuals may create unsafe encroachment of ROWs
• locations of pipelines that cross their jurisdictions and how to get detailed information about those pipelines

Much of this information would be quite valuable for local Planning, Public Works, and Parks departments. We ask that this oversight be corrected.

Language of a Recommended Practice versus a Rule
There is much difficulty taking a document that is written as a recommended practice and turning it into an actual rule. We ask that you rewrite the document to make it perfectly clear which items are required versus which are recommended, and how and who makes those determinations.

Need for Program Evaluation, Adaptation, and Flexibility
For any type of education program to be successful it needs to be continually evaluated and adapted based on evaluation findings. In the recent Report on the Results of Operator Self-Assessments more than 42% of pipeline operators reported that their programs require no “periodic assessments to determine if the program is effective.” We are encouraged by the inclusion of evaluation in RP 1162, and ask that clear requirements for frequency of evaluation and response to varying evaluation findings be included in the final rule. We also ask that the final rule provide flexibility so pipeline operators can manage their education and awareness programs in an adaptive manner based on the finding of their evaluation programs so the programs can improve continuously. Too often such rules become a checklist of what is required, instead of a process for continual improvement. Through a well designed rule, that includes an evaluation and adaptation process, such continuous improvement becomes expected.

Public Should Not Have to Pay for Copies of Proposed Rules
We also would like to ask that in the future complete copies of proposed rules be made easily available to the public. In this particular instance API’s RP 1162 was not available to the public except from the API’s website in a form that the public could not print or copy from. To get an easy to use version it was necessary to pay $76.00. This cost and difficulty is not conducive to public involvement in RSPA rulemakings.

Pipeline Safety Rules should be about Pipeline Safety
Finally, we were surprised to read in the Federal Register Notice that “A primary benefit of this rulemaking is complying with Congressional mandates. In addition, increased public awareness that is obtained through the expansion of public education programs is
expected to have some benefits due to a potential for fewer pipeline accidents from third party damage and improved emergency response.” We believe that this particular Congressional mandate was aimed at increasing pipeline safety, and that should always be the goal of pipeline safety rules. We hope that you will act upon our above suggestions so this Pipeline Safety Public Education Program can be expanded to fully address pipeline safety issues.

Thank you for this opportunity to comment!

Sincerely,

[Signature]

Carl Weimer, Executive Director
Pipeline Safety Trust
1155 North State St. Suite 609
Bellingham, WA 98225
360-543-5686