

**Incorporation by Reference (Section 24) Public Workshop  
Pipeline & Hazardous Materials Safety Administration**

U.S. Department of Transportation  
West Building, Media Center  
Friday, July 13, 2012

7:30 a.m. – 8:00 a.m.: **On-site Registration**

8:00 a.m. – 9:00 a.m.: **Panel 1 – Issues Overview**

Overview of PHMSA's use of incorporation by reference.

a. **Stakeholder Overview** (*5 minutes*)

This will be a brief introduction and overview of who has been invited, who is in attendance, and the content for the day.

**Vanessa Allen Sutherland**, Chief Counsel, PHMSA

**Jeannie Layson**, Director of Governmental, International, and Public Affairs, PHMSA

b. **Historical Overview of IBR** (*40 minutes*)

This panel will discuss the National Technology Transfer and Advancement Act of 1995 (NTTAA), the Office of Management and Budget Circular No. A-119 (Circular), the motivation for executing both, and the impact they have had on government regulations. Both the NTTAA and the Circular direct Federal agencies to use voluntary consensus standards in their regulations. The panel will discuss the use of these voluntary consensus standards and explain their role in agency regulations. Finally, the panel will address incorporation by reference and recent recommendations from the Administrative Conference of the United States (ACUS). ACUS recently conducted a study of Federal agency experience with incorporation by reference, including the use of voluntary consensus standards.

**Panelists**

**Emily Bremer**, Attorney Advisor, Administrative Conference of the United States

**Mary Saunders**, Director, Standards Coordination Office, National Institute of Standards and Technology

c. **PHMSA Overview of IBR Use** (*20 minutes*)

This panel will provide details about PHMSA's use of voluntary consensus standards, including the number of standards, the number of pages, and secondary references used by both the pipeline and hazmat divisions.

**Panelists**

**Linda Daugherty**, Deputy Associate Administrator, PHMSA, Pipeline

**Ryan Posten**, Deputy Associate Administrator, PHMSA, Hazmat

9:00 a.m. – 9:15 a.m.: **Break**

9:15 a.m. – 10:30 a.m.: **Panel 2 – Facilitated Panels**

Topic: Section 24 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Public Law 112-90 signed by the President on January 3, 2012. Section 24 requires PHMSA within one year, by January 2013, to no longer incorporate voluntary consensus standards, in whole or in part, by reference into its regulations unless the standards are made available to the public on the Internet free of charge. Each panelist will read a brief statement outlining their experience and perspective regarding Section 24 and incorporation by reference.

a. **SDOs**

- i. **Scott Cooper**, Vice President of Public Policy and Government Relations, American National Standards Institute

Describe the standard development process.

- ii. **Jeff Grove**, Vice President of Global Policy and Industry Affairs, ASTM International

Discuss some of the practical challenges of PHMSA's implementation of Section 24 and how it has successfully worked with other Federal agencies to provide the public with access to certain ASTM standards and test methods.

- iii. **Oliver Moghissi**, Vice President, Det Norske Veritas, Pipeline Standards Developing Organizations Coordinating Council

Discuss voluntary consensus standards, especially in the context of pipeline standards.

- iv. **Joseph Wendler, P.E.**, Director of Standards and Certification Initiatives, American Society of Mechanical Engineers

Discuss the challenges that Section 24 creates for standards developing organizations and potential unintended consequences.

b. **Small Business Administration**

- i. **Bruce Lundegren**, Assistant Chief Counsel, Office of Advocacy, U.S. Small Business Administration

Discuss Advocacy's role in overseeing agency compliance, outreach to small entities, and recent comments to OFR and OMB. Discuss the importance of government-wide IBR policies and the need for agencies to ensure small entities are represented.

c. **Public Interest**

- i. **David Halperin**, Of Counsel, Public.Resource.Org

Discuss Congress' motivations to enact Section 24 and IBR accessibility requirements resulting from federal court decisions. Discuss impacts of wider availability of IBR standards and what Public.Resource.Org is doing to make standards more available.

- ii. **Carl Weimer**, Executive Director, Pipeline Safety Trust

Discuss the Pipeline Safety Trust's view of the importance of making incorporated standards freely available to the public.

10:30 a.m. – 11:10 a.m.: **Break**

11:10 a.m. – 12:00 p.m.: **Continuation of Panel 2 and Public Input**

Those who have requested to read a prepared statement may do so now. There will be no Q&A session.

**David Karmol**, Vice President of Federal and External Affairs, International Code Council

**Roberta Winters**, Vice President for Issues and Action, League of Women Voters of Pennsylvania

12:00 p.m. – 1:00 p.m.: **Lunch**

1:00 p.m. – 3:00 p.m.: **Working Session: Implementation Strategies**

Moderators will lead a facilitated discussion among panelists to discuss solutions that would enable PHMSA to successfully meet the requirements of Section 24.

**Vanessa Allen Sutherland**, Chief Counsel, PHMSA

**Neil Eisner**, Assistant General Counsel, Office of the Secretary of Transportation

**Jeannie Layson**, Director of Governmental, International, and Public Affairs, PHMSA

**Mary Saunders**, Director, Standards Coordination Office, National Institute of Standards and Technology