



Peter T. Lidiak
Director

Pipeline Segment

1220 L Street, NW
Washington, DC 20005-4070
USA
Telephone 202-682-8323
Fax 202-682-8579
Email lidiakp@api.org
Web www.api.org

October 13, 2008

David Kunz
Chief Counsel
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, S.E.,
East Building, 2nd Floor
Washington, DC 20590

Scott Sherman
Associate Assistant Administrator
Office of Solid Waste and Emergency Response
Environmental Protection Agency
Ariel Rios Building; Mail Code 5101T
Washington, DC 20460

Subject: SPCC Joint Jurisdictional Issues for Pipeline Operators

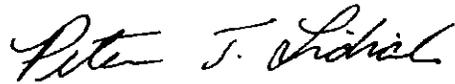
Dear David and Scott,

Thank you both for taking the time on October 7 to attend our API Pipeline Committee on Environment, Health & Safety (CEHS) meeting and provide us with an update on your agencies' efforts at resolving the DOT/EPA jurisdictional issue within the Spill Prevention Control and Countermeasures (SPCC) Rule. We were all very encouraged by the progress of the talks between PHMSA and EPA, and pleased to hear that, as you stated, both agencies are not far apart on a method for differentiating jurisdiction and establishing the appropriate divide under the SPCC Rule.

From the October 7 meeting, our understanding is that PHMSA and EPA are planning on repealing the 2000 Felder/Luftig memorandum of agreement between DOT and EPA, and on replacing it with a new letter agreement incorporating a primary function test. You requested API provide hypothetical scenarios for which the agencies' spill prevention regulations might prove inadequate under a primary function test. We want to reiterate, as stated in the meeting, that we all agree there should be no gaps in the regulations and overlaps are to be avoided. We have asked our members to submit any such outlier examples to us this week, and will provide these to you shortly.

Please let us know if we may be of further assistance to you in developing or fault-checking a primary function test. We will get back to you next week with information we receive on the outlier scenarios. If you have any questions in the meantime, I may be reached by phone at 202-682-8323 and by email at lidiakp@api.org or contact Karen Simon at 202-682-8224 or simonk@api.org.

Sincerely,

A handwritten signature in cursive script that reads "Peter J. Lidiak". The signature is written in black ink and is positioned below the word "Sincerely,".