Wisconsin (Mr. PETRI) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2611.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 2611, would designate the United States Coast Guard headquarters in Washington, D.C., as the Douglas A. Munro Coast Guard Headquarters Building.

Douglas Munro was born in Vancouver, Canada, of American parents on October 11, 1919, and grew up in Washington State. He attended the Central Washington College of Education for a year and left to enlist in the United States Coast Guard in 1939. He served the country during World War II, rising to the rank of signalman first class.

Douglas Munro was killed in action at Guadalcanal on September 27, 1942, shielding 500 United States marines from enemy fire during an evacuation. He volunteered to head the boats for the evacuation, and he placed himself and his boats as cover for the last marine to leave. During this time, Douglas Munro was fatally wounded. Reportedly, he remained conscious long enough to say four words: ''Did they get off?''

Douglas Munro was awarded the Medal of Honor and the Purple Heart. The bravery and sacrifice of Douglas Munro saved hundreds of marines, and he should be honored and remembered. I think it's appropriate to ensure that he will always be remembered by naming the United States Coast Guard headquarters in his honor.

Therefore, I support the passage of this legislation, and I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I thank the gentleman for his remarks.

The timing on this bill could not be more appropriate. Later this month, we will cut the ribbon for the new Coast Guard building, the first building the Coast Guard has ever owned.

Next month, Coast Guard employees will begin moving into the building located on the old Saint Elizabeths Hospital campus in southeast Washington, D.C. It is only fitting that the Coast Guard should be moving into a building named for one of their own, Signalman First Class Douglas Albert Munro. Signalman First Class Munro is the U.S. Coast Guard's only Medal of Honor recipient. The Coast Guard specifically requested that I write this bill in time for the opening of the Coast Guard headquarters.

I want to express my appreciation to my good friends on the other side for promptly passing this bill in committee last week and then seeing to it that it got to the floor this week.

Munro died heroically on Point Cruz, Guadalcanal, after succeeding in his volunteer assignment to evacuate a detachment of marines that had been overwhelmed by the enemy. Signalman First Class Munro had an outstanding record as an enlisted man and was promoted rapidly through the various ratings to a signalman first class. In addition to being a Medal of Honor recipient, Signalman First Class Munro was also posthumously awarded the Purple Heart Medal and was eligible for the American Defense Service Medal, the Asiatic-Pacific Area Campaign Medal, and the World War II Victory Medal. He, indeed, was a hero.

Signalman First Class Munro is an excellent example of the commitment to service and bravery that our men and women of the Coast Guard still provide today, much of it here at home. It is an honor to be the lead sponsor of this bill to name the building in honor of a true American hero.

The new Coast Guard headquarters building that would be named for Signalman First Class Douglas A. Munro will be a 1.1-million-square-foot building and will house up to 3,700 members of the U.S. Coast Guard and civilian employees. This building, which will be the first office building completed for the Department of Homeland Security headquarters consolidation, will mark the first time that a Federal agency will be located east of the Anacostia River.

I believe Signalman First Class Douglas A. Munro's outstanding service to his country and his unique status as the only member of the U.S. Coast Guard to win the Medal of Honor ensures that it is particularly fitting to name the new U.S. Coast Guard headquarters the Douglas A. Munro Coast Guard Headquarters Building.

I urge my colleagues to support this measure, and I want to say in closing, Mr. Speaker, that we honor Signalman First Class Munro by naming a first class, extraordinary, state-of-the-art building after him. But in honoring Signalman First Class Munro, I think we also honor members of the Coast Guard. These are, to coin a cliche, real unsung heroes in our society. They are the men and women who save men and women and children every year right here in our country as part of their duties here. In a real sense, when we name this building for the only Medal of Honor winner, I think it will make Americans understand there are many heroes of the Coast Guard who also serve them every day of every year.

Mr. Speaker, I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I urge my colleagues to join me in supporting this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and pass the bill, H.R. 2611.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. PETRI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

AVAILABILITY OF PIPELINE SAFETY REGULATORY DOCUMENTS

Mr. PETRI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2576) to amend title 49, United States Code, to modify requirements relating to the availability of pipeline safety regulatory documents, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF PIPELINE SAFETY REGULATORY DOCUMENTS.

Section 60102(p) of title 49, United States Code, is amended—

(1) by striking ''1 year'' and inserting ''3 years'';

(2) by striking ''guidance or''; and

(3) by striking '', on an Internet Web site''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. PETRI) and the gentlewoman from Nevada (Ms. TITUS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

□ 1730

GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 2576.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill before us, H.R. 2576. This bill is a correction of an unintended consequence of the bipartisan Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. It is sponsored by Chairman DENHAM of the Subcommittee on Railroads, Pipelines, and Hazardous Materials, along with full committee Chairman SHUSTER, Ranking Member RAHALL, and subcommittee Ranking Member BROWN.

Last Congress, section 24 of the Pipeline Safety Act included a good-faith provision intended to make the pipeline safety regulations and guidance of the Pipeline and Hazardous Materials

Safety Administration, or PHMSA, more transparent. It did so by requiring any document or portion thereof incorporated by reference into the new regulations and guidance of PHMSA to be made available free of charge on the Internet. In so doing, however, an unintended consequence of this language was created that, contrary to the intent of Congress, has adversely impacted the ability of PHMSA to move forward with its regulatory agenda by placing practical barriers on PHMSA's ability to rely on the state-of-the-art technical standards written by standards developing organizations, referred to as SDOs. This bill simply corrects this unintended outcome and preserves the intellectual property rights of these organizations while still meeting the goals of a transparent government with free access to standards for noncommercial purposes.

Specifically, the bill allows for standards to be made free of charge but strikes ''on an Internet Web site,'' which allows PHMSA and SDOs more leeway to comply with the law. It also gives industry and PHMSA extra time to comply by making it effective 3 years from enactment instead of 1 year.

Finally, the bill limits the applicability of the provision to only pipeline safety organizations. I believe that this bipartisan technical correction will provide PHMSA with the flexibility needed to continue to fully leverage its partnership with standards developing organizations and save the government money by not requiring PHMSA to develop its own technical standards for rulemaking.

I reserve the balance of my time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 11, 2013.

Hon. BILL SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR CHAIRMAN SHUSTER: I write concerning H.R. 2576, a bill to amend title 49, United States Code, to modify requirements relating to the availability of pipeline safety regulatory documents, and for other purposes, which was ordered to be reported out of your Committee on July 10, 2013. I wanted to notify you that the Committee on Energy and Commerce will forgo action on H.R. 2576 so that it may proceed expeditiously to the House floor for consideration.

This is being done with the understanding that the Committee on Energy and Commerce is not waiving any of its jurisdiction, and the Committee will not in any way be prejudiced with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding, and ask at a copy of our exchange of letters on this matter be included in the Congressional Record during consideration of H.R. 2576 on the House floor.

Sincerely,

FRED UPTON,
Chairman.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES,
Washington, DC, July 11, 2013.

Hon. FRED UPTON,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R 2576, a bill to amend title 49, United States Code, to modify requirements relating to the availability of pipeline safety regulatory documents, and for other purposes, which was ordered to be reported out of the Committee on Transportation and Infrastructure on July 10, 2013. I appreciate your willingness to support expediting floor consideration of this legislation.

I acknowledge that by forgoing action on this legislation, the Committee on Energy and Commerce is not waiving any of its jurisdiction and will not in any way be prejudiced with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I appreciate your cooperation regarding this legislation and I will include our letters on H. R. 2576 in the Congressional Record during floor consideration of this bill.

Sincerely,

BILL SHUSTER,
Chairman.

Ms. TITUS. Mr. Speaker, I yield myself such time as I may consume.

On January 3, 2012, President Obama signed into law the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Section 24 of that act states that, effective January 3, 2013, the Secretary of Transportation may not issue ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public free of charge or on an Internet Web site.''

Then, in the last Congress, the Subcommittee on Railroads, Pipelines, and Hazardous Materials held a number of hearings on pipeline safety, one of which highlighted a current regulation that required pipeline operators to develop and implement public education and awareness programs. The regulation did not explain what should be contained in the education programs, however. Instead, it pointed readers to an industry-developed standard. But in order to read the standard, you had to pay the drafters more than $1,000. If you're a small community, $1,000 is a lot of money for access to just one of many pipeline safety standards.

I and many of my colleagues have concerns about the Federal Government issuing a regulation that requires whoever wants to read it—particularly local communities, first responders, and private citizens—to have to purchase it from a private association. Fortunately, the 2011 act resolved this situation.

Following enactment of section 24, DOT held a public workshop and Webcast with more than 70 industry, safety, and government representatives present to discuss options for implementing the new law. Nearly 200 other entities participated in the Webcast. Additional comments were provided through the Federal Register notice, including by the Small Business Administration, which noted many concerns of small businesses with the continued use of incorporation by reference.

Since the workshop, several standards development organizations have agreed in writing to electronically post on the Internet all of the consensus standards that the Pipeline and Hazardous Materials Safety Administration incorporates by reference into the Federal pipeline safety regulations. Those include ASTM International, the Manufacturers Standardization Society, the Gas Technology Institute, NACE International, the National Fire Protection Association, the American Petroleum Institute, the American Gas Association. I will include their letters in the CONGRESSIONAL RECORD.

I also will insert letters from the Pipeline Safety Trust, Dakota Rural Action, and Columbia law professor Peter Strauss expressing the need for public availability of the standards in the RECORD.

Unfortunately, some organizations have expressed concerns about posting their standards on the Internet. This has in turn held up progress of several important safety rulemakings that were mandated in the 2011 pipeline law. So in the spirit of bipartisanship, and not wanting to hold up the rulemaking process, I believe the law should be modified to provide DOT with additional time to implement it and with additional flexibility to determine how best to make the standards widely available to the public. I believe that, even with these changes that are in the law, the law will continue to address the transparency and openness concerns of the safety community.

Mr. Speaker, I yield back the balance of my time.

U.S. DEPARTMENT OF TRANSPORTATION, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,
Washington, DC, March 4, 2013.

Re incorporation by reference of voluntary consensus standards for pipeline safety regulations.

Mr. JAMES THOMAS,
President, ASTM International,
West Conshocken, PA.

DEAR MR. THOMAS: As you know, the practice of incorporating voluntary consensus standards allows pipeline operators to use the most current industry technologies, materials, and management practices available on today's market. New or updated standards often further innovation and increase the use of new technologies that improve the safety and operations of pipelines and pipeline facilities.

On January 3, 2012, President Obama signed into law the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90) (the Act). Section 24 of the Act states that, effective January 3, 2013, PHMSA may not issue ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.''

In support of Section 24 of the Act, we thank ASTM International (ASTM) for agreeing to electronically post on the Internet all ASTM consensus standards that PHMSA incorporates by reference into the

federal pipeline safety regulations after January 3, 2013. It has also agreed to post on the Internet any updated, revised, or new ASTM consensus standards that PHMSA proposes during rulemaking to incorporate by reference. While ASTM has discretion in how they accomplish this objective, it has agreed that, at a minimum, these voluntary consensus standards will be: Electronically posted on an Internet Web site; Available to the public; and Free of charge.

ASTM has agreed to notify PHMSA immediately if it is no longer able or capable of meeting the above minimum posting requirements. We request that you also notify us if any standards are removed from your electronic archives, if you have such an archives. The voluntary consensus standards developed by ASTM play a critical role in safeguarding pipeline safety, and PHMSA is tremendously appreciative of the constructive role ASTM is playing in ensuring their continued use in the federal pipeline safety regulations.

After you review the terms of this agreement, please sign below and return a copy to PHMSA. If you have questions, please contact Mike Israni at 202–366–4571.

Sincerely,

JEFFREY D. WIESE,
Associate Administrator for Pipeline Safety.

U.S. DEPARTMENT OF TRANSPORTATION, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,

Washington, DC, March 4, 2013.

Re incorporation by reference of voluntary consensus standards for pipeline safety regulations.

Mr. ROBERT O'NEILL,
Executive Director, Manufacturers Standardization society,
Vienna, VA.

DEAR MR. O'NEILL: As you know, the practice of incorporating voluntary consensus standards allows pipeline operators to use the most current industry technologies, materials, and management practices available on today's market. New or updated standards often further innovation and increase the use of new technologies that improve the safety and operations of pipelines and pipeline facilities.

On January 3, 2012, President Obama signed into law the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90) (the Act). Section 24 of the Act states that, effective January 3, 2013, PHMSA may not issue ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.''

In support of Section 24 of the Act, we thank the Manufacturers Standardization Society (MSS) for agreeing to electronically post on the Internet all MSS consensus standards that PHMSA incorporates by reference into the federal pipeline safety regulations after January 3, 2013. It has also agreed to post on the Internet any updated, revised, or new MSS consensus standards that PHMSA proposes during rulemaking to incorporate by reference. While MSS has discretion in how they accomplish this objective, it has agreed that, at a minimum, these voluntary consensus standards will be: Electronically posted on an Internet Web site; Available to the public; and Free of charge.

MSS has agreed to notify PHMSA immediately if it is no longer able or capable of meeting the above minimum posting requirements. We request that you also notify us if any standards are removed from your electronic archives, if you have such an archives. The voluntary consensus standards developed by MSS play a critical role in safeguarding pipeline safety, and PHMSA is tremendously appreciative of the constructive role MSS is playing in ensuring their continued use in the federal pipeline safety regulations.

After you review the terms of this agreement, please sign below and return a copy to PHMSA. If you have questions, please contact Mike Israni at 202–366–4571.

Sincerely,

JEFFREY D. WIESE ,
Associate Administrator for Pipeline Safety.

U.S. DEPARTMENT OF TRANSPORTATION, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,

Washington, DC, March 4, 2013.

Re incorporation by reference of voluntary consensus standards for pipeline safety regulations.

Mr. EDDIE JOHNSTON,
Managing Director, Gas Technology Institute,
Des Plaines, IL.

DEAR MR. JOHNSTON: As you know, the practice of incorporating voluntary consensus standards allows pipeline operators to use the most current industry technologies, materials, and management practices available on today's market. New or updated standards often further innovation and increase the use of new technologies that improve the safety and operations of pipelines and pipeline facilities.

On January 3, 2012, President Obama signed into law the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90) (the Act). Section 24 of the Act states that, effective January 3, 2013, PHMSA may not issue ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.''

In support of Section 24 of the Act, we thank the Gas Technology Institute (GT1) for agreeing to electronically post on the Internet all GTI consensus standards that PHMSA incorporates by reference into the federal pipeline safety regulations after January 3, 2013. It has also agreed to post on the Internet any updated, revised, or new GTI consensus standards that PHMSA proposes during rulemaking to incorporate by reference. While GTI has discretion in how they accomplish this objective, it has agreed that, at a minimum, these voluntary consensus standards will be: Electronically posted on an Internet Web site; Available to the public; and Free of charge.

GTI has agreed to notify PHMSA immediately if it is no longer able or capable of meeting the above minimum posting requirements. We request that you also notify us if any standards are removed from your electronic archives, if you have such an archives. The voluntary consensus standards developed by GTI play a critical role in safeguarding pipeline safety, and PHMSA is tremendously appreciative of the constructive role GTI is playing in ensuring their continued use in the federal pipeline safety regulations.

After you review the terms of this agreement, please sign below and return a copy to PHMSA. If you have questions, please contact Mike Israni at 202–366–4571.

Sincerely,

JEFFREY D. WIESE,
Associate Administrator for Pipeline Safety.

U.S. DEPARTMENT OF TRANSPORTATION, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,

Washington, DC, March 4, 2013.

Re incorporation by reference of voluntary consensus standards for pipeline safety regulations.

Ms. HELENA SEELINGER,
Senior Director, NACE International,
Houston, TX.

DEAR MS. SEELINGER: As you know, the practice of incorporating voluntary consensus standards allows pipeline operators to use the most current industry technologies, materials, and management practices available on today's market. New or updated standards often further innovation and increase the use of new technologies that improve the safety and operations of pipelines and pipeline facilities.

On January 3, 2012, President Obama signed into law the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90) (the Act). Section 24 of the Act states that, effective January 3, 2013, PHMSA may not issue ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.''

In support of Section 24 of the Act, we thank NACE International (NACE) for agreeing to electronically post on the Internet all NACE consensus standards that PHMSA incorporates by reference into the federal pipeline safety regulations after January 3, 2013. It has also agreed to post on the Internet any updated, revised, or new NACE consensus standards that PHMSA proposes during rulemaking to incorporate by reference. While NACE has discretion in how they accomplish this objective, it has agreed that, at a minimum, these voluntary consensus standards will be: Electronically posted on an Internet Web site; Available to the public; and Free of charge.

NACE has agreed to notify PHMSA immediately if it is no longer able or capable of meeting the above minimum posting requirements. We request that you also notify us if any standards are removed from your electronic archives, if you have such an archives. The voluntary consensus standards developed by NACE play a critical role in safeguarding pipeline safety, and PHMSA is tremendously appreciative of the constructive role NACE is playing in ensuring their continued use in the federal pipeline safety regulations.

After you review the terms of this agreement, please sign below and return a copy to PHMSA. If you have questions, please contact Mike Israni at 202–366–4571.

Sincerely,

JEFFREY D. WEISE,
Associate Administrator for Pipeline Safety.

NACE INTERNATIONAL,
THE CORROSION SOCIETY,
Houston, TX, March 13, 2013.

Mr. JEFFREY D. WIESE,
Associate Administrator for Pipeline Safety, U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Washington, DC.

DEAR JEFF: Thank you for your letter received on March 4, 2013, seeking agreement by NACE International on action to be taken in concurrence with the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (PL. 112–90), Section 24.

NACE International agrees with the action requested in the letter, with a proviso that PHMSA will notify NACE International prior to issuing proposed rulemaking that

references NACE standards. This proviso is made in response to the statement that NACE ''. . . has also agreed to post on the Internet any updated, revised, or new NACE consensus standards that PHMSA proposes during rulemaking . . .'' NACE has many standards available to NACE members, but publicly posts only standards that are referenced by PHMSA. To ensure that NACE proactively posts the NACE standards covered in our agreement, NACE personnel would need to know of their IBR status from PHMSA.

Jeff, thank you for your service to pipeline safety.

Kind regards,

HELENA SEELINGER,
Sr. Director, Membership Services, Public Affairs, & Standards.

U.S. DEPARTMENT OF TRANSPORTATION, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,
Washington, DC, March 4, 2013.

Re incorporation by reference of voluntary consensus standards for pipeline safety regulations.

Mr. JAMES SHANNON,
President, National Fire Protection Association, Quincy, MA.

DEAR MR. SHANNON: As you know, the practice of incorporating voluntary consensus standards allows pipeline operators to use the most current industry technologies, materials, and management practices available on today's market. New or updated standards often further innovation and increase the use of new technologies that improve the safety and operations of pipelines and pipeline facilities.

On January 3, 2012, President Obama signed into law the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90) (the Act). Section 24 of the Act states that, effective January 3, 2013, PHMSA may not issue ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.''

In support of Section 24 of the Act, we thank the National Fire Protection Association (NFPA) for agreeing to electronically post on the Internet all NFPA consensus standards that PHMSA incorporates by reference into the federal pipeline safety regulations after January 3, 2013. It has also agreed to post on the Internet any updated, revised, or new NFPA consensus standards that PHMSA proposes during rulemaking to incorporate by reference. While NFPA has discretion in how they accomplish this objective, it has agreed that, at a minimum, these voluntary consensus standards will be: Electronically posted on an Internet Web site; Available to the public; and Free of charge.

NFPA has agreed to notify PHMSA immediately if it is no longer able or capable of meeting the above minimum posting requirements. We request that you also notify us if any standards are removed from your electronic archives, if you have such an archives. The voluntary consensus standards developed by NFPA play a critical role in safeguarding pipeline safety, and PHMSA is tremendously appreciative of the constructive role NFPA is playing in ensuring their continued use in the federal pipeline safety regulations.

After you review the terms of this agreement, please sign below and return a copy to PHMSA. If you have questions, please contact Mike Israni at 202–366–4571.

Sincerely,

JEFFREY D. WIESE,
Associate Administrator for Pipeline Safety.

ENERGY API,
STANDARDS DEPARTMENT,
Washington, DC, May 1, 2013.

Re incorporation by reference of voluntary consensus standards for pipeline safety regulations.

Mr. JEFFREY D. WIESE,
Associate Administrator for Pipeline Safety, U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Washington, DC.

DEAR MR. WIESE: Thank you for your March 4, 2013 letter regarding incorporation by reference of voluntary consensus standards for pipeline safety regulations. As you know, API made the decision in the fall of 2010, well before the passage of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, to place all of API's Govemment-cited and safety-standards on API's website for free public viewing. This site can be found at http://www.api.org/publications. It is our understanding that this action fully meets the intent of the Act.

It is API's policy to maintain this website and to include on this website any API consensus standards that PHMSA proposes during formal rulemaking to incorporate by reference into Federal regulations, to ensure that all users of the website have access to API's most up to date best industry practices.

Again, thank you for your letter of March 4, 2013, and please let me know if you have any further questions.

Sincerely,

DAVID MILLER.
Director, Standards.

U.S. DEPARTMENT OF TRANSPORTATION, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,
Washington, DC, March 4, 2013.

Re incorporation by reference of voluntary consensus standards for pipeline safety regulations.

Ms. CHRISTINA SAMES,
Vice President, Operations and Engineering, American Gas Association, Washington, DC.

DEAR MS. SAMES: As you know, the practice of incorporating voluntary consensus standards allows pipeline operators to use the most current industry technologies, materials, and management practices available on today's market. New or updated standards often further innovation and increase the use of new technologies that improve the safety and operations of pipelines and pipeline facilities.

On January 3, 2012, President Obama signed into law the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112–90) (the Act). Section 24 of the Act states that, effective January 3, 2013, PHMSA may not issue ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.''

In support of Section 24 of the Act, we thank the American Gas Association (AGA) for agreeing to electronically post on the Internet all AGA consensus standards that PHMSA incorporates by reference into the federal pipeline safety regulations after January 3, 2013. It has also agreed to post on the Internet any updated, revised, or new AGA consensus standards that PHMSA proposes during rulemaking to incorporate by reference. While AGA has discretion in how they accomplish this objective, it has agreed that, at a minimum, these voluntary consensus standards will be: Electronically posted on an Internet Web site; Available to the public; and Free of charge.

AGA has agreed to notify PHMSA immediately if it is no longer able or capable of meeting the above minimum posting requirements. We request that you also notify us if any standards are removed from your electronic archives, if you have such an archives. The voluntary consensus standards developed by AGA play a critical role in safeguarding pipeline safety, and PHMSA is tremendously appreciative of the constructive role AGA is playing in ensuring their continued use in the federal pipeline safety regulations.

After you review the terms of this agreement, please sign below and return a copy to PliMSA. If you have questions, please contact Mike Israni at 202–366–4571.

Sincerely,

JEFFREY D. WIESE,
Associate Administrator for Pipeline Safety.

Mr. PETRI. Mr. Speaker, I urge my colleagues to join me in supporting this legislation, and I yield back the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in support of H.R. 2576.

This bill represents a commonsense technical fix to section 24 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.

The changes made by H.R. 2576 will provide the Department of Transportation's Pipeline and Hazardous Materials Safety Administration with the flexibility necessary to find a balanced solution between the use of standards incorporated by reference in its safety regulations and the need to increase transparency and access to those standards.

The National Technology Transfer and Advancement Act of 1995 requires federal agencies to use voluntary consensus standards developed by the private sector as part of any federal regulation rather than allow the agencies to create their own government specific standards.

This law created a foundation for a public-private partnership that has been tremendously beneficial. It has saved the federal government money by drawing on the vast technical expertise of the private sector and by creating ''buy-in'' from the parties who will ultimately be regulated—increasing compliance and lessening the cost of enforcement.

While this partnership is extremely valuable and should not be weakened in anyway, it is also important that the public have access to these standards, especially if they are going make their way into a regulation.

I believe there is a middle ground to be found here. In fact, the Administrative Conference of the United States offers a number of recommendations that federal agencies should consider.

One such recommendation is that federal agencies should work with standards development organizations to make their copyrighted materials reasonably available to interested parties during the rulemaking process. This could be accomplished by posting a read-only copy of the standard online for a limited period of time.

The bottom line is DOT needs to find a path forward so that the safety of the nation's pipelines is not eroded and the most up-to-date standards are utilized. H.R. 2576 provides DOT with the flexibility to find that path. I urge my colleagues to support HR. 2576.

Ms. BROWN of Florida. Mr. Speaker, when I was Chair of the Subcommittee on Railroads, Pipelines and Hazardous Materials, I held a number of hearings on pipeline safety, one of which highlighted an American Petroleum Institute-developed (API) standard which was incorporated by reference in a pipeline education and awareness regulation. But in order to comprehend the regulation, interested parties had to obtain the API standard, which cost more than $1,000. One thousand dollars is a lot of money, particularly for small communities, local emergency responders, and pipeline safety advocates, for just one of the many pipeline safety standards referenced in regulations issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

Fortunately, Congress resolved the situation in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Section 24 of the Act prohibited the Secretary of Transportation, effective January 3, 2013, from issuing ''guidance or a regulation that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.''

Since enactment of the legislation, all but one organization has agreed in writing to electronically post on the Internet all of their consensus standards that PHMSA incorporates by reference into the federal pipeline safety regulations, including:

ASTM International; The Manufacturers Standardization Society; The Gas Technology Institute; NACE International; The National Fire Protection Association; The American Petroleum Institute; The American Gas Association.

Many other organizations have submitted letters to PHMSA expressing the need for public availability of the standards. I ask unanimous consent that the letters from the Pipeline Safety Trust, Dakota Rural Action, and Columbia Law Professor Peter Strauss be included in today's RECORD.

One organization, however, has expressed concern about posting their standards on the Internet. This has, in turn, held up progress of several important safety rulemakings that were mandated in the 2011 pipeline law.

So in an effort to move these important rulemakings forward, I believe the law should be modified to provide DOT with additional time to implement it and with additional flexibility to determine how best to make the standards widely available to the public.

I believe that even with these changes the law will continue to address the transparency and openness concerns of the safety community.

I urge my colleagues to support H.R. 2576.

PIPELINE SAFETY TRUST,
Bellingham, WA, July 15, 2013.

Hon. CORRINE BROWN,
Ranking Member, Subcommittee on Railroads, Pipelines, and Hazardous Materials, U.S. House of Representatives, Washington, DC.

Dear Ms. Brown: We would like to thank the Transportation & Infrastructure Committee and the Energy & Commerce Committee for their efforts during the passage of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (the 2011 Act) to ensure that the public can actually freely read all the regulations that Congress mandates and that PHMSA then creates through the rulemaking process that could impact public safety and the health of the environment. A review of the Code of Federal Regulations under which PHMSA operates finds the following numbers of incorporated standards:

STANDARDS INCORPORATED BY REFERENCE IN 49 CFR PARTS 192, 193, 195

(As of 6/9/2010)

CFR Part	Topic	Standards*
192	Natural and Other Gas	39
193	Liquefied Natural Gas	8
195	Hazardous Liquids	38
Total		85

*Note: Some standards may be incorporated by reference in more than one CFR Part.

Before passage of the Act most all of the 85 standards that had been incorporated into the rules had to be purchased if a member of the public wanted to know what the regulations required. PHMSA has estimated the cost to purchase a set of these standards to be between $8,500–$9,500.

The 2011 Act took the important step of ensuring public access to these standards by requiring that they be ''made available to the public, free of charge, on an Internet Web site.'' This made good sense since web-based access is the most convenient and cost effective way for the government to share important information with the public.

Unfortunately, what was not fully realized at the time this provision was passed, was the financial difficulties it could pose to some of the standard developing organizations that have created a business model based on selling such standards back to the regulated industries and the public. This created an uncomfortable conflict between what was right in terms of public access and transparency, and how to continue to encourage private standards to be created and updated.

In the end all the standard developing organizations but one, ASME, found a way to meet the obligations of the Act. We thank these organizations for working hard to provide public access to their standards and the associated understanding and trust in the system. Unfortunately, to date ASME has been unwilling to move forward to provide transparency to their standards like all the other organizations have been willing to do. This refusal on ASME's part has caused many important pending rules to be potentially put on hold since they contain ASME standards, which PHMSA cannot make available without ASME's support and assistance. That brings us to where we are today, extending the implementation period for this important transparency issues from 1 to 3 years to allow PHMSA to release pending rules and find a way to make all these standards ''available free of charge'' to the public.

We hope that all the standard developing organizations that have designed ways to freely share their standards don't take this delay as a sign of a lack of commitment to this effort and remove their standards from public access. We also hope that ASME and PHMSA will continue their discussions to find a way to truly make these important parts of the federal regulations easily and freely available to the public.

We note that in H.R. 2576 the requirement that these standards be made available ''on an Internet Web site'' has been removed. This may not be a significant change as long as PHMSA fulfills the continuing Congressional intent that these standards be ''made available to the public, free of charge.'' Clearly ''free of charge'' means exactly what it says, that a requester incurs no expense in obtaining any incorporated standard. In no way can the current PHMSA rule, as spelled out in 49 CFR 192. 7 and 195.3, of requiring people who want to review a standard to travel to the PHMSA office in Washington DC be considered ''free of charge'' at no cost to the requester.

Again, we thank you for your efforts to encourage public access and transparency regarding the regulations that are meant to protect their safety and the health of our shared environment.

Sincerely,

CARL WEIMER,
Executive Director.

DAKOTA RURAL ACTION,
WESTERN ORG. OF RESOURCE COUNCILS,
July 11, 2012.

Re Docket ID PHMSA–2012–0142: implementing incorporation by reference (IBR) requirements of section 24

We regretfully are not able to attend the public workshop on July 13 due to expenses of travel. We request that you consider these comments as you would comments submitted in person.

We the undersigned organizations are writing to urge you to oppose any weakening or repeal of Section 24 of H.R. 2845, the ''Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011.'' Section 24 assures that future agency pipeline safety rules that incorporate standards by reference will require that those standards be made publically available for free on the Internet.

Western Organization of Resource Councils (WORC) is a regional network of seven grassroots community organizations with 10,000 members and 38 local chapters: including Dakota Rural Action in South Dakota, the Dakota Resource Council in North Dakota, and the Northern Plains Resource Council in Montana, which have members affected by the Keystone I pipeline and the proposed Keystone XL pipeline.

Dakota Rural Action is a grassroots family agriculture and conservation group that organizes South Dakotans to protect our family farmers and ranchers, natural resources and unique way of life. We are a member group of WORC and represent over 950 South Dakotans across the state. Many of our members in South Dakota have been directly impacted by numerous pipeline projects, with anticipation of more being constructed.

Representing the public interest, we strive to create a more fair and open government. Secret laws, or a government that only allows access to laws by a segment of the public able to pay for it, goes in direct opposition to the values of a participatory democracy. Congress has repeatedly recognized the need for public access to information with the Administrative Procedures Act, the Federal Register Act, the National Technology Transfer and Advancement Act, the Electronic Freedom of Information Act, and, most recently, with Section 24 of the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011.

As of June 2010 there were 85 standards referenced in 46 CFR 192, 193, 195. For a citizen to have access to these referenced standards they would have to pay private organizations upwards of $2,000. These associated costs are an insurmountable burden for an average citizen, making it practically impossible for the public to knowledgeably comment in a rulemaking proceeding, or to propose changes to regulations that already incorporate referenced standards.

There is no reasonable excuse for failing to provide standards and supporting information that are part of existing or proposed regulations implementing federal law at no charge to the public. The fact that these standards were developed by private associations of companies subject to the laws and regulations in question does not entitle the regulated industry or any private entity serving that industry to profit from exclusive access to information and language meant to protect public health and safety.

Anything short of full implementation of Section 24 of the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 would amount to deliberate action by PHMSA to block public participation in our government, directly contradicting the principles and values of access and transparency of the Administration and expressed by Congress in enacting section 24.

MEREDITH REDLIN,
Chair, Dakota Rural Action.
LANA SANGMEISTER,
Chair, Western Organization of Resource Councils.

COLUMBIA LAW SCHOOL,
New York, NY, July 12, 2012.

Re PHMSA workshop in incorporation by reference.

GENTLEFOLK: I appreciate the opportunity to file these comments in support of your workshop. If I may very briefly summarize their gist, there are three important propositions I would impress on you:

A sharp distinction should be drawn between Standards Development Organization (SDO) standards that are genuinely ''technical'' in character and those that, like the API standards on public hazard warnings, have a policy character that draws their force from normative conclusions, not technical expertise, and may serve to promote-industrial interests.

It is important to distinguish as well between SDOs that are professionally centered and broadly representative of the areas for which they develop standards, and those that, like API, are industrial associations or, like Underwriters Laboratories, businesses with an economic stake in the use of their standards beyond supporting standards development and publication—as by providing necessary testing or certification services.

Finally, and perhaps most importantly, one should distinguish between standards that are converted into legal obligations by the fact of their incorporation, and standards that are simply identified in guidance or regulations as one means, but not the exclusive and necessary means, by which independently stated regulatory requirements can be met. While the statute your workshop is concerned with addresses guidance documents as well as legal obligations, the rationale for requiring free public access to the former is much weaker. Once agency action has made conformity to a standard mandatory, it is no longer a voluntary consensus standard. Law is not properly subject to copyright; but guidance is not law. Perhaps ways can be found to achieve the effect of guidance yet that will not require SDOs to surrender their understandable interest in finding financial support for their standards-development activities through the sale of copyright-protected standards serving that role, and thus remaining voluntary consensus standards.

The problem of incorporation by reference of standards development organization voluntary standards into federal regulatory materials has attracted significant attention in recent months. It was the subject of a major study by the Administrative Conference of the United States, resulting in recommendations drawing on an extensive study made by Emily Bremer, a staff attorney. Subsequently, on behalf of myself and others, I filed a petition for rulemaking on the subject with the Office of Federal Register. When OFR published this petition in the Federal Register with requests for comments, an FDMS docket of more than 160 items resulted. Subsequently, OMB held a workshop with NIST and sought commentary on possible revision of its circular A–119; an FDMS docket of more than 60 items resulted. A major new book thoroughly explores the practice of standard-setting, with emphasis on implications for international trade but attention as well to the ways in which American practice differs from that of European nations.

From all these materials, a number of propositions fairly clearly emerge:

The creation of voluntary consensus standards had its origin in considerations quite independent of governmental regulation, and they remain a necessary element of today's market economies, permitting market participants to deal confidently with one another. They are extremely valuable for this reason. This reality is dominant, and is independent of governmental use of standards for regulatory purposes. Indeed, it appears that the great bulk of voluntary consensus standards are not incorporated into law, as such, and for them no issue whatever of inhibition on copyright arises. To the extent SDO viability depends on the sale of these standards, it remains untroubled. The SDO commentary in the two FDMS dockets just mentioned consistently obscures this reality. It is written as if every standard SDOs produce is threatened by the proposition that those that are incorporated as law should be publicly available to those affected.

By influencing the markets for affected goods, those who participate in the setting of standards, may gain significant competitive advantages over those who do not. This is particularly true for non-consensus standards and for industry-centered, corporate-membership standards-generating organizations like the American Petroleum Institute, whose membership is more than 500 oil and natural gas companies. Industrial standard-setters like API may be contrasted to, say, ASME—which has 125,000 members and no corporate members—or the many other SDOs having tens of thousands of individual, professional members. For the latter, the issue of possibly gaining a competitive advantage is rarely present. It is more likely that the interests of small businesses that will need to adhere to the standards adopted will be represented and heard. Gaining competitive advantage may also be the result for an individual business, such as Underwriters Laboratories, whose testing and certifying subsidiaries may profit from the conversion of UL's preferred standards into legal obligations.

European standards organizations are typically organized along hierarchical lines, both national (the British Standards Institute) and European (CEN, CENELEC), so that on any given matter, only one standard will emerge. Their processes for generating standards involve wide participation by all interested groups—even to the extent that the participation of socially important but resource-poor groups may be subsidized. European technical standards are typically framed as independent of the regulations to which they relate, and are not in themselves legally binding. Since they only serve to define one assured method for establishing regulatory compliance, not an exclusive method, they merely create a presumption that one complying with them has complied with the substantive norms of the regulation. Although showing that one has met the standard is usually the more efficient path to demonstrating regulatory compliance, citizens remain free to prove their compliance in a different way.

The pattern of standard setting in the United States is ''decentralized and characterized by extensive competition among many standard-setting bodies, operating with little government oversight and no public financial support. . . . [It] comprises some 300 trade associations, 130 professional and scientific societies, 40 general membership organizations, and at least 150 consortia which together have set more than 50,000 standards. . . . Spurred by competition, these organizations have developed numerous standards of the highest technical quality, but the fragmentation also . . . results in conflicting standards and hence poor interoperability . . .

''The shift of rulemaking to the international level turns this fragmentation into a problem for the effectiveness of American interests in the global market place. Coordination and cooperation do not arise spontaneously among competing standard-setters, and . . . [there is] a long tradition of keeping government at arms' length. . . . In the absence of government control or any other central monitoring and coordinating agent, the American system for product standardization is characterized by extreme pluralism and contestation. . . . ANSI remains a weak institution, even though it formally is the sole representative of U.S. interests in international standards organizations. . . . Private U.S. standards organizations, which derive 50 to 80 percent of their income from the sale of their proprietary standards documents . . . fear that a more centralized system would rob them of these revenues and eclipse their power and autonomy. . . . ''Rather than reach out to community interests, as European standards organizations do ''as a prerequisite for genuine openness and due process. . . . most American standards organizations contend that willingness to pay is the best measure of interest in the process and see no need for financial assistance,'' and in some contexts the sum that must be paid—even by federal agencies wishing to participate—is quite high. Some American standard-setters, the American Petroleum Institute, for example, clearly present themselves as industry representatives. This is not too problematic for standards that serve only to govern technical issues important to relations among industrial participants needing a confident basis for their dealing. Yet acceptance of industry representatives as standard-setters is questionable in matters that are not technical in nature and also involve public interests, such as pipeline hazard warnings or impositions on small businesses who are the necessary customers of the industry.

Competition benefits the users of standards only if adherence to them is not mandatory. One way in which a standards organization can defeat its competitors under the American system, and obtain a monopoly over standards (and their sale) is by having them incorporated by reference, not as one means for regulatory compliance (as in Europe) but as binding law, that must be complied with and can result in sanctions if departed from. With that monopoly, too, the standards organization acquires the power to charge a non-market price. The legislation that is the subject of this hearing resulted from the exercise of just that power. One of the comments in response to our petition to the Office of Federal Register for rulemaking reports that another standards association was charging two-and-a-half times as much for a standard that had been incorporated as law, as for its subsequent standard on the same matter, that had not yet been substituted for the first by amendatory rulemaking. Over half the incorporated standards in CFR predate 1995. Since SDOs uniformly update their standards on a relatively short cycle, most if not all of these earlier, still incorporated standards will presumptively have been replaced by the issuing SDO. Yet, if they are still law, they remain mandatory. Sale of outdated but still compulsory standards may improve the SDO's

bottom line, but it cannot rationally be ascribed to the business model for sustaining fresh standards development.

Commercial advantage also inheres in standards generated by businesses that profit from compliance determinations. On the Comm2000 website where Underwriters Laboratories offers its standards for sale, its Standard for Manual Signaling Boxes for Fire Alarm Systems, 52 pages long in all, costs $502 in hard-copy and $402 for a use-restricted pdf version; $998 ($798) purchases a three year subscription that includes revisions, interpretations, etc. However, the text of this standard incorporates by reference five other UL standards, whose purchase would add five times these amounts (as each of these referenced standards is identically priced). And even this would not complete the picture; one of these five referenced standards (746C, Standard for Polymeric Materials—Use in Electrical Equipment Evaluations) itself references 27 unique others, whose individual prices are often hundreds of dollars higher—for a total cost well in excess of $10,000. Standards in the libraries of professional engineering SDOs are more likely to sell in the $50 range. Comments in the FDMS dockets tend to assert that all standards are sold at reasonable prices, without giving concrete details. Neither OFR nor the incorporating agency exercises control over the reasonableness of price at the moment of incorporation. And, once incorporation has occurred, any opportunity for price control by the OFR or the incorporating agency vanishes. Of course, if standards were treated merely as guidance, not law, market forces would operate as one control; and agencies could more freely remove a standard from its compliance guidance if persuaded its price had become unreasonable—either in general, or in its application to vulnerable small businesses.

This last point suggests the appropriateness of turning to what is arguably the most objectionable feature of the statute that is the subject of this workshop: it applies equally to standards treated as guidance identifying a satisfactory but not mandatory means of complying with an independently stated regulatory obligation, and to standards incorporated in a manner that makes them the law itself—mandatory obligations in and of themselves. In my judgment, these two situations are quite different, both in law and in their implications for agency efficiency and effective regulation.

SDO standards converted into law—a mandatory obligation—by the manner of their incorporation suffer all the possible deficits mentioned above

They end the competition among American voluntary consensus standard-setters that is identified by many as a particular strength of our system in relation to others.

Correspondingly, they confer monopoly pricing power on the SDO whose standard has been converted from a voluntary consensus standard into an involuntary, mandatory obligation.

They significantly limit agency capacity to respond to new developments, since changing a mandatory standard set by rule will require fresh rulemaking, with its procedural costs and obstacles. That this occurs in practice may be seen in the simple fact that over half of incorporated standards are more than seventeen years old—some, indeed, no longer ''available'' in any form, reasonably or not.

The income streams resulting from law-forced purchases of mandatory but outdated standards may be convenient for the SDOs receiving them, but bear no relationship either to sound industrial practice (adherence to the contemporary standard should be preferable) or to the SDO business model for supporting the continuing development of standards.

Law is not subject to copyright. The Copyright Office knows this; it has been hornbook American law from the inception. The arguments here are most eloquently made in the FDMS docket comments of the ABA Section of Administrative Law and Regulatory Practice, and would be tedious to repeat at length. Moreover, this proposition is wholly independent of the policy concerns SDOs raise to argue that it should not be the case. It simply is the case and the consequence is that if an agency has converted a voluntary consensus standard into a legal obligation, it cannot fail to inform the public what is its legal obligation. (SDOs should perhaps for this reason resist agencies' conversion of voluntary standards into legal obligations; and the question whether the agency must compensate the SDO for doing so is an open one. Some argue that the benefit to the SDO from the imprimatur of incorporation will exceed any detriment to its bottom line—incorporations typically involves only part of the standard involved, and most businesses will wish to purchase the standards in their full, convenient form. Moreover, incorporated standards make up only a fraction of an SDO's armamentarium.) When Minnesota enacted the Uniform Commercial Code, the ALI (its drafter) retained its copyright for purposes of selling the UCC as such, but Minnesota was obliged to make its new code public, and was not obliged to pay ALI when it did so.

When an agency proposes incorporation by reference that will create legal obligations, it is strongly arguable that it must at that time make the standard proposed to be incorporated available to commenters in the rulemaking process. Contemporary administrative law caselaw and Executive Order 12,866 each impose transparency standards more demanding than might appear from the simple text of 5 U.S.C. §553. One cannot comment on a standard whose content is unknown. As the Pipeline Safety Trust observed in its FDMS comments, ''incorporating standards by reference, the way it is done now, has turned notice and comment rulemaking into a caricature of what it was intended to be.''

Since agency guidance of means by which one might successfully comply with independently stated regulatory obligations is not law, an agency's identification of a standard as one such means leaves interested parties an option whether to refer to the standard or not. It creates no legal obligation to reveal the contents of the standard used as guidance, and the SDO' s copyright is secure. It is of course also possible that there will be other identifiable means of regulatory compliance—the reputed strength of the American SDO process—so that recognition of the SDO's copyright in relation to the guidance given creates no monopoly power.

Use of standards as guidance also permits ready upgrading of the guidance as soon as standards are revised; the troubling problem of outdated standards enduring as legal obligations (because fresh rulemaking has not been undertaken) need not arise.

It is, then, regrettable that the statute you are discussing draws no distinction between incorporation by reference as mandatory obligation, and its use to provide guidance. The most useful result of your workshop, in my judgment, would be to push hard for the recognition of this distinction—by interpretation of your statutory obligations, if that seems possible, or by working for amendment. But I can find no fault with, and much reason to support, the obligation PHMSA has been placed under to assure free public access, both at the stage of proposal and at the stage of adoption, to standards whose incorporation by reference is used to create legal obligations. The effect of that use of incorporation is to transfer lawmaking into private hands that operate in secret; and ''delegations of public power to private hands [undermine] the capacity to govern.''

Respectfully submitted,

PETER L. STRAUSS,
Betts Professor of Law.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and pass the bill, H.R. 2576.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. PETRI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 37 minutes p.m.), the House stood in recess.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HULTGREN) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 2576, by the yeas and nays;

H.R. 1848, by the yeas and nays;

H.R. 2611, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AVAILABILITY OF PIPELINE SAFETY REGULATORY DOCUMENTS

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 2576) to amend title 49, United States Code, to modify requirements relating to the availability of pipeline safety regulatory documents, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr.