

Subcommittee on Energy hearing entitled “Strengthening American Energy: A Review of Pipeline Safety Policy.”

**Additional Questions for the Record
for Andy Black, Liquid Energy Pipeline Association**

The Honorable Robert Latta (R-OH)

- 1. The PIPES Act of 2020 recognized the value of using new technologies to bolster both efficiency and safety. However, PHMSA’s implementation of the program had many non-statutory requirements that ultimately deterred participation. At his confirmation hearing before Senate Commerce, PHMSA nominee Roberti committed to examining non-statutory hurdles to technology programs, but what guardrails should this Committee consider when authorizing such programs?**
 - A. PHMSA’s failed implementation of the technology pilot program after Congressional authorization in 2020 demonstrates the need for further statutory guardrails to ensure PHMSA follows the will of Congress. To implement the 2020 program, PHMSA used processes and applied additional conditions and requirements that went beyond Congressional mandates and were inappropriate for the scope and risks of the program. For example, Congress required the newly authorized technology pilot program to meet the requirements of the separately authorized special permit program. This reflected a misreading of statutory intent where Congress specifically authorized the technology pilot program separate from the special permit program with its own special and unique requirements. PHMSA’s actions also reflected the inappropriate application of unnecessary conditions. For example, the special permit requirements PHMSA invoked are for regulatory waivers that may stretch for the lifetime of a pipeline, which can last many decades. Technology pilots are mandated to sunset after not later than 3 years. Additionally, special permits as final agency actions trigger a NEPA review. Technology pilots are not final agency actions and PHMSA had never previously required NEPA review for any of its other research and development programs. To avoid a future administration from either unintentionally or intentionally thwarting this program, Congress should include statutory language preventing PHMSA from applying conditions beyond those specified in statute, including those of the special permit program, and prevent the invocation of NEPA review for technology pilots.

The Honorable Lizzie Fletcher (D-TX)

- 1) In your testimony, you mentioned the need to reauthorize the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) technology demonstration pilot program. I have heard concerns from operators that the**

program's implementation has prevented its use to get these new pilot technologies into the field.

a) What actions can PHMSA take to maximize the program's effectiveness and ensure that new pilot technologies have a viable testbed?

- A. Expiration of the 2020 PIPES technology program prevents PHMSA from implementing this program until new authorization is provided, which LEPA strongly supports. If Congress does reauthorize this program, PHMSA can ensure its success by promptly issued guidance reflecting the programmatic requirements set by Congress and ensuring the resources are in place to provide a timely review of technology pilot applications.

b) As the Energy and Commerce Committee works on a PHMSA reauthorization bill, what provisions would help ensure the program's success?

- A. Provisions the Committee adopted last Congress in section 13 of H.R. 7655 would reauthorize, improve and protect the technology pilot program. Certainly, lowering limitations on mileage and percentage of system available for testing, and extending the years the program is authorized would allow for more technology testing. Section 13 also provided a new opportunity for multiple operators to participate in a single pilot program. Vital to the technology program's success are provisions to prevent PHMSA from imposing additional conditions not specified by Congress, prevent PHMSA from using the special permit program and its requirements to implement the technology pilot program, and prevent PHMSA from requiring a NEPA review of technology pilots.