



**SUMMER 2017**

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## President Trump's Early Actions Aim to Reduce Regulations, Resurrect Pipeline Projects Pipeliners

Since his inauguration on Jan. 20, President Donald Trump has taken executive actions aimed at streamlining the number of regulations and regulators, expediting regulatory review infrastructure improvements and, somewhat ironically, resurrecting two oil pipelines that the Obama administration's regulatory review process had strangled—the Dakota Access Pipeline (DAPL) and Keystone XL pipeline (KXL). To do this, the president used a combination of Executive Orders and Presidential Memoranda.

An Executive Order is a legally binding mandate from the president to the federal agency heads. It instructs the agencies how to interpret or administer the law and is published in the Federal Register, a daily, official journal that publishes changes to government rules and regulations. A Presidential Memorandum is similar to an Executive Order, but is not required to be published in the federal register and, as such, is a little more difficult to track.

This month's column examines a few of these executive actions that will undoubtedly impact the construction, operation and maintenance of oil and gas pipelines.

### Fewer Regulations, Regulators

The nascent Trump administration took several steps to limit the effectiveness of "late night" regulations developed by the prior administrations as well as reduce the number of regulators and regulations. First, on Jan. 20, The Chief of Staff, Reince Priebus issued a memorandum asking each of the heads of executive departments and agencies to 1.) send no regulation to the Office of the Federal Register (OFR), part of the National Archives and Records Administration, until a department or agency head appointed or designated by the president after noon on Jan. 20 reviews and approves the regulation; 2.) withdraw immediately any regulations that have been sent to the OFR, but not yet published in the Federal Register; and 3.) temporarily postpone for 60 days the effective date of regulations that have been published in the Federal Register,

but have not yet taken effect. The Priebus memorandum was not groundbreaking. Rahm Emmanuel and Andrew Card published similar memoranda at the start of the Barrack Obama and George W. Bush administrations. But that's where the similarity with prior administrations ends.

On Jan. 23, Trump issued a memorandum ordering an "across the board" hiring freeze, while the Director of the Office of Management and Budget develops and implements a long-term plan to reduce the size of the Federal government's workforce through attrition. A week later, the President issued an Executive Order aimed at "Reducing Regulation and Controlling Regulatory Cost." The order required that, whenever an agency proposes a new regulation, it must identify two existing regulations to be repealed. Further, for fiscal year 2017, which has been in progress since October 2016, the total incremental cost of all new regulations for each agency must be no greater than zero. In short, the goal is less red tape and lower cost.

A month later, on Feb. 24, the president issued an Executive Order to further reduce the regulatory burden on the American people. The order requires the head of each agency to appoint a Regulatory Reform Task Force, chaired by a Regulatory Reform Officer, to evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification. The task force is required to report progress to the agency head within 90 days of the date of the order.

All told, Trump has begun the slow, deliberate process of changing the course of the federal government. According to data from the Office of Personnel Management, in 1966, the federal government under President Lyndon Johnson had 2,726,000 employees and 3,129,000 uniformed military personnel. In contrast, in 2014 (the last year of available data), there were 2,683,000 million federal employees and 1,459,000 uniformed military personnel. However, reports indicate that when he left office, Obama's federal government was the largest in history. The current White House resident intends to reverse the trend, which will bring both cheers and jeers from Congress.

Continued on page 2.

## FORECAST OF ATLANTIC SEASONAL HURRICANE ACTIVITY AND LANDFALL STRIKE PROBABILITY FOR 2017

We have increased our forecast and now believe that 2017 will have above-average activity. The odds of a significant El Niño in 2017 have continued to diminish, and most of the tropical and subtropical Atlantic remains anomalously warm. With the increase in our forecast, the probability for major hurricanes making landfall along the United States coastline and in the Caribbean has increased as well.

Forecast Parameter & 1981-2010 Median (in parenthesis)	Observed Activity Through June 2017	5 July Forecast for Remainder Of 2017
Named Storms (12.0)	3	12
Named Storm Days (60.1)	4	66
Hurricanes (6.5)	0	8
Hurricane Days (21.3)	0	35
Major Hurricanes (2.0)	0	3
Major Hurricane Days (3.9)	0	7
Accumulated Cyclone Energy (92)	3	132
Net Tropical Cyclone Activity (103%)	7	133

### Probabilities for at least one major (Category 3-4-5) hurricane Landfall on each of the following coastal areas:

- ◆ 1. Entire U.S. coastline - 62% (average for last century is 52%)
- ◆ 2. U.S. East Coast including Peninsula Florida - 39% (average for last century is 31%)
- ◆ 3. Gulf Coast from the Florida Panhandle westward to Brownsville - 38% (average for last century is 30%)

### Probability for at least one major (Category 3-4-5) Hurricane tracking into the Caribbean (10-20°N, 60-88°W)

- ◆ 1. 52% (average for last century is 42%)

### ABSTRACT

Information obtained through June 2017 indicates that the 2017 Atlantic hurricane season will have activity Continued on page 3.

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**President Trump's Early Actions**  
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**Pipeline Projects**

On Jan. 24, the president issued three Presidential Memoranda. To set the stage, he required the Secretary of Commerce to develop and submit to the president by July 15, "a plan under which all new pipelines, as well as retrofitted, repaired, or expanded pipelines, inside the borders of the United States... use materials and equipment produced in the United States, to the maximum extent permitted by law".

**Dakota Access Pipeline:** Trump issued to the Secretary of the Army a Presidential Memorandum "Regarding Construction of the Dakota Access Pipeline." By way of background, the memorandum explains that DAPL is an "approximately 1,100-mile pipeline that is designed to carry approximately 500,000 barrels per day of crude oil from the Bakken and Three Forks oil production areas in North Dakota to oil markets in the United States. At this time, the DAPL is more than 90 percent complete across its entire route. Only a limited portion remains to be constructed."

In early December 2016, the Army Corps of Engineers was ready to issue the last bit of authorization required to complete construction of the pipeline—an easement so that DAPL could cross under Lake Oahe (a reservoir created in the 1960's by the construction of the Oahe Dam on the Missouri River in South Dakota). An environmental assessment in July 2016 had already established that the pipeline posed no environmental danger. But after a meeting on Dec. 2, 2016, with Sioux tribal leaders, the Obama administration made a political decision to effectively nullify

the findings of the environmental assessment. Specifically, on Dec. 4, then Assistant Secretary of the Army, Jo Ellen Darcy, issued a memorandum stating that an Environmental Impact Statement (EIS) was required to explore "alternatives (including alternative sites), mitigation strategies, monitoring needs, and preferences expressed by the affected community or population." On Jan. 18, two days before President Obama left office, the Federal Register published the Department of Defense's "Notice of Intent to Prepare an Environmental Impact Statement in Connection with Dakota Access LLC's Request for an Easement to Cross Lake Oahe, North Dakota," which established that written comments on the scope of an EIS should be sent no later than Feb. 20. The joint forces of Native Americans and climate activists had stymied DAPL.

Against this backdrop, President Trump's memorandum directs the Secretary of the Army to instruct the Corps to:

1. Review and approve in an expedited manner requests for approvals to construct and operate the DAPL, including easements or rights of way to cross Federal areas;
2. Consider whether to rescind or modify the Dec. 4 memorandum issued by Darcy and whether to withdraw the Notice of Intent to Prepare an EIS;
3. Consider whether prior reviews and determinations, including the environmental assessment issued in July 2016 as satisfying all applicable environmental laws; and
4. Issue the approved easements or rights-of-way.

On Feb. 8, DAPL received the easement from the Corps. The Cheyenne River Sioux Tribe then filed a motion

with the federal trial court in Washington, D.C., for a preliminary injunction, arguing that the presence of oil in the pipeline under Lake Oahe will cause irreparable harm to its members' "religious exercise" (in violation of the Religious Freedom Restoration Act), and therefore construction should be enjoined. On March 7, the judge denied the motion, concluding that "the extraordinary relief requested is not appropriate in light of both the equitable doctrine of laches (i.e., the Tribe waited too long to bring the claim) and the Tribe's unlikelihood of success...." On March 18, the D.C. Circuit also refused to grant the injunction.

Eight other pipelines already cross Lake Oahe, one of which, a 42-in. natural gas pipeline built 30 years ago, is located 5 ft below the mud floor of the lake. DAPL will be constructed about 95 to 115 ft below the lake.

With the easement in hand, the owners of DAPL (Energy Transfer Partners) closed on the sale of slightly more than a one-third interest in the pipeline to Mar-En Bakken Co. L, and entity jointly owned by Enbridge Energy Partners and Marathon Petroleum Corp. Oil finally began to flow through DAPL on March 27, as the pipeline prepares for commissioning.

**Keystone XL:** Trump also issued to the Secretaries of State, Army and Interior, a memorandum "Regarding Construction of the Keystone XL Pipeline." Remember, on Sept. 19, 2008, Trans-Canada Keystone Pipeline LP filed the first application for a Presidential Permit to construct, operate and maintain pipeline facilities for the importation of crude oil at the international border between the United States and Canada in Phillips County, Montana. The Keystone XL pipeline

would transport crude oil through a 36-in. diameter pipeline from Western Canada to a point on the existing Keystone pipeline system near Steele City, Nebraska, which in turn would allow for delivery to refinery markets in the Texas Gulf Coast area. A final EIS was published on Aug. 26, 2011. In response to concerns with the pipeline's proposed route in the Sand Hills of Nebraska, on Jan. 18, 2012, TransCanada filed a second application for a Presidential Permit, with the pipeline's route avoiding the Sand Hills. On Jan. 14, 2014, a Supplemental EIS was issued. On Nov. 6, 2016 (two days before the presidential election), President Obama announced that a Presidential Permit would not be issued for Keystone XL.

President Trump's memorandum invited TransCanada to promptly re-submit its application to the Department of State for a Presidential permit for the construction and operation of the Keystone XL Pipeline and directed the:

1. Secretary of State to facilitate the expeditious review, including a final decision, within 60 days of TransCanada's submission of the permit application;
2. Secretary of the Army to instruct the Corp to review and approve expeditiously requests for authorization to utilize to cross the "waters of the United States" by the Keystone XL Pipeline; and
3. Secretary of the Interior, as well as the directors of the bureau of Land Management and the United States fish and Wildlife Service (FWS) to review and expeditiously approve requests for approvals or other relief related to other applicable laws and regulations.

Two days later, on Jan. 26, TransCanada announced that it had submitted a Presidential Permit application to the U.S. Department of State for approval of the Keystone XL pipeline. On Feb. 16, the company filed an application with the Nebraska Public Service Commission (PSC) seeking approval for the Keystone XL pipeline route through the state. TransCanada reports, "The proposed route was evaluated by the Nebraska Department of Environmental Quality and approved by the Governor of Nebraska in 2013." The preferred route avoids the Nebraska Sandhills, over 90 percent of the landowners along the proposed pipeline corridor have signed voluntary easements to construct Keystone XL.

On March 9, Secretary of State Rex Tillerson recused himself from any decision on the Keystone XL Presidential Permit. Tillerson was previously the CEO of ExxonMobil, which is heavily invested in the oil production in Western Canada. On March 24, the State Department issued a Presidential Permit, but the project

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**Forecast of Atlantic Seasonal Hurricane Activity 2017**

Continued from page 1.  
above the median 1981-2010 season. This revised prediction is a considerable increase from our early seasonal forecasts issued in April and June. There remains considerable uncertainty with this forecast which we outline in the following paragraphs.

We estimate that 2017 will have an additional 8 hurricanes (median is 6.5), 12 named storms (median is 12.0), 66 named storm days (median is 60.1), 35 hurricane days (median is 21.3), 3 major (Category 3-4-5) hurricanes (median is 2.0) and 7 major hurricane days (median is 3.9). The probability of U.S. major hurricane landfall is estimated to be about 120 percent of the long-period average. We expect Atlantic basin Accumulated Cyclone Energy (ACE) and Net Tropical Cyclone (NTC) activity in 2017 to be approximately 145 percent of their long-term averages for the remainder of the season.

This forecast is based on an extended-range early July statistical prediction scheme that was developed utilizing 34 years of past data. Analog predictors are also utilized. We now anticipate an above-average Atlantic basin hurricane season. The odds of a significant El Niño in 2017 have continued to diminish, and most of the tropical and subtropical Atlantic remains anomalously warm. The lack of El Niño conditions typically leads to a lower shear environment in the tropical Atlantic, while a warmer-than-normal tropical Atlantic provides more fuel for developing tropical cyclones. In addition, a warmer-than-normal tropical Atlantic is generally associated with lower surface pressures, increased mid-level moisture and weaker trade winds, creating a more conducive dynamic and thermodynamic environment for hurricane formation and intensification.

**President Trump's Early Actions**

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still requires state regulatory approval. Forecasts indicate that the pipeline will support tens of thousands of direct and indirect jobs during construction and contribute approximately \$3.4 billion to U.S. gross domestic product.

**Bottom Line**

While on the campaign trail, Trump promised that, during the first 100 days of his administration, he would take several actions to "Make America Great Again," including "lift the Obama-Clinton roadblocks and allow vital energy infrastructure projects, like the Keystone Pipeline, to move forward." He kept that promise. We'll see how he does with the other campaign pledges. As for the executive actions, perhaps Paul Begala, political consultant and advisor to President Bill Clinton, summed it up best: "Stroke of the pen. Law of the land. Kinda cool."

**Gas Utility Advocacy**  
Continued from page 4.

done an outstanding job of formulating industry positions on those proposals and helping stakeholders understand the potential consequences of those proposals on companies, their customers and the public at large."

The AGA lauded the passage of S. 2776, the Securing America's Future Energy: Protecting our Infrastructure of Pipelines and Enhancing Safety Act (SAFE PIPES Act), which President Obama signed into law in June and on July 7, AGA submitted extensive comments on the Pipelines and Hazardous Materials Safety Administration (PHMSA)'s Safety of Gas Transmission and Gathering Pipelines Proposed Rule. The organization also worked closely to support the Pipeline Inspection, Protection Enforcement and Safety Act of 2006 and the Pipeline Safety, Regulatory Certainty and Job Creation act of 2011.

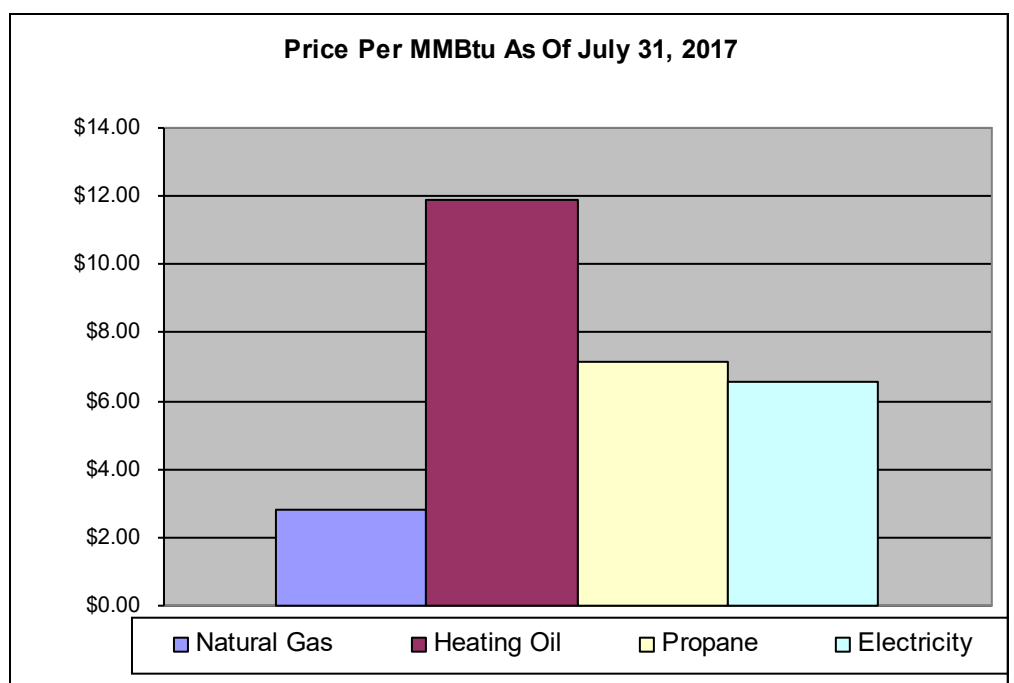
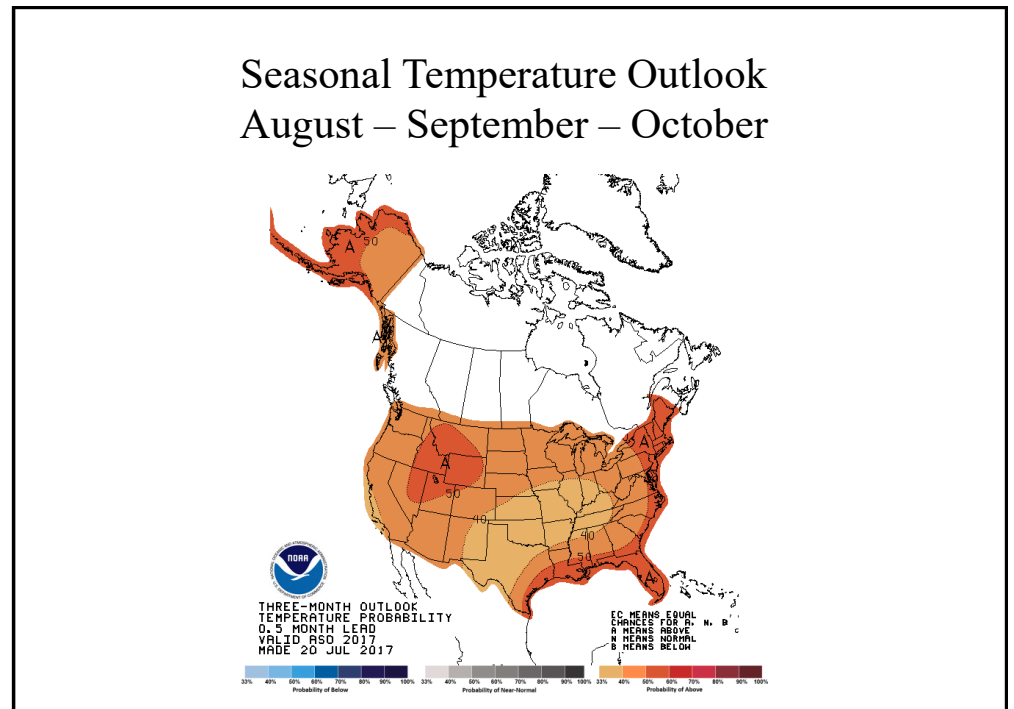
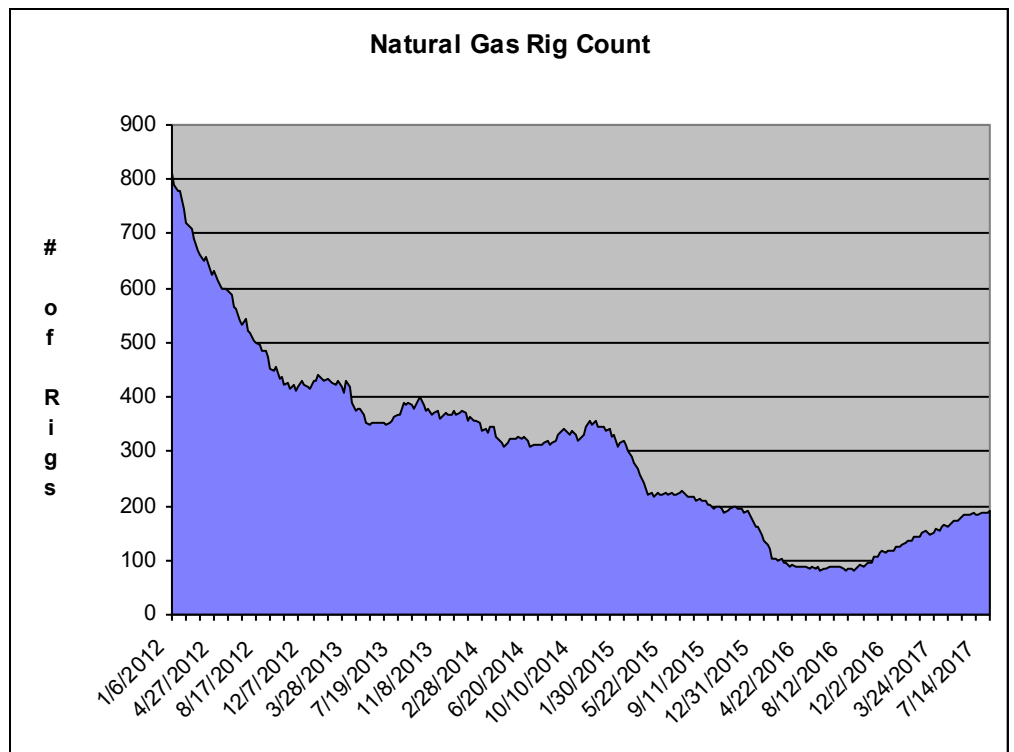
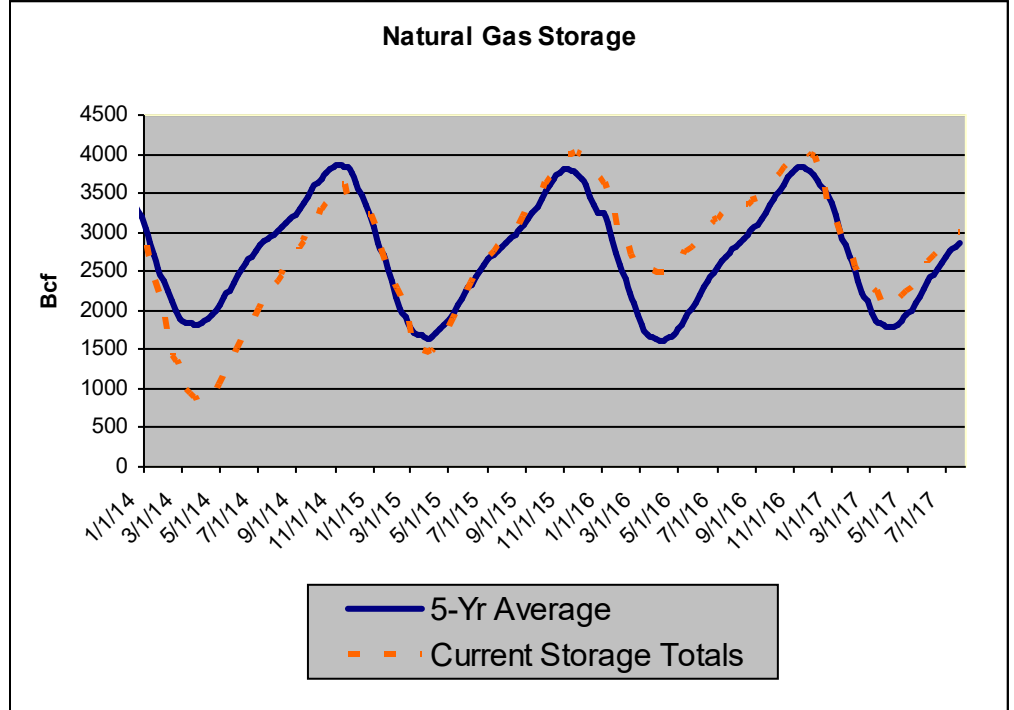
The SAFE PIPES Act will improve pipeline safety by closing gaps in federal standards, enhancing the quality and timelines of rulemakings, promoting better usage of data and technology and providing regulatory certainty for natural gas utilities that are actively enhancing safety for their customers and communities," McCurdy says. He added that the 2006 and 2011 acts, "Contained significant changes to pipeline safety programs and created numerous new programs to further improve industry safety. AGA member companies have implemented many aspects of these programs either through regulations or voluntarily."

As for PHMSA's Safety of Gas Transmission and Gathering Pipelines Proposed Rule, AGA voiced its support for the intended pipeline safety benefits but has several areas of concern with the proposed modifications to the pipeline safety regulations.

"AGA and its member companies believe PHMSA's proposal fails to consider the extensive existing regulatory and voluntary safety initiatives currently in place. Ultimately, this imposes prescriptive and burdensome requirements on operators that will likely not address the perceived regulatory pipeline safety benefits," McCurdy says. "AGA's comments are intended to provide PHMSA with the feedback and suggestions necessary to develop the Proposed Rule into a regulation that will make a meaningful enhancement in pipeline safety."



**Snapshots**



**GAS UTILITY ADVOCACY**  
Safety, Reliability Top List of  
AGA's Priorities

For nearly 100 years, one organization has stood at the forefront of advocacy for the nation's natural gas industry, continually pushing for the safe and reliable delivery of natural gas to homes and businesses. The American Gas Association, or AGA as it is commonly known, represents more than 200 energy companies - the local utilities operating in and around homes every day of the week.

This fact makes the AGA's mission all the more important. Many view these local utilities as more of a partner than a business in the communities they service.

According to the latest data from the AGA, natural gas accounts for roughly a quarter of the United States' energy. Natural gas is ubiquitous and the need for the clean-burning fuel continues to grow even as the country looks to increase its use of renewable energy.

"AGA and its member companies work tirelessly to help ensure the safe and reliable delivery of clean, efficient natural gas to the more than 177 million Americans that use it today," says Dave McCurdy, AGA president and CEO. "While there have been concerns in previous decades about a shortage of natural gas, thanks to technology developments, natural gas is now domestically abundant with more than a 100-year supply.

**An Abundance of Gas**

Though AGA advocates on behalf of its members on a wide variety of topics, the priority lies with the safety and reliability of the vast natural gas pipeline network - approximately 2.5 million miles - that carries the fuel across the United States. To put that into perspective, the Earth's equatorial diameter is 7,926 miles, so the nation's natural gas pipeline network could wrap the planet nearly 316 times.

Today's pipeline network far surpasses what was in the ground in 1918 when the organization formed as well as what was in the ground in 1927 when the AGA merged with the Natural Gas Association of America. This merger marked the turning point for AGA as its members shift manufactured gas to natural gas. It was through this merger that the AGA established itself as the representative for the natural gas utility industry.

"There are more than 72 million residential, commercial and industrial natural gas customers in the United States, of which 95 percent - just under 69 million customers - receive their gas from AGA members," McCurdy says. "AGA provides clear value to its membership and serves as the leading voice and facilitator on their behalf in promoting the safe, reliable and efficient delivery of natural gas to homes and businesses across the nation."

The membership in AGA goes beyond the local distribution companies. It encompasses contractors, engineers, manufacturers and other service providers to the gas industry. Among other things, membership allows these providers access to industry and AGA experts, participation in AGA committees and programs, and access to AGA reports, analysis, market research and publications.

All told, through all levels of membership (full, limited, international, international affiliate, associate, association honorary and foreign honorary), AGA boasts a roster of more than 675 organizations worldwide. Its role as an international advocate for the natural gas industry came after the organization hosted the 17th annual World Gas Conference in 1988. AGA is set to host the triennial conference in 2018 in Washington, D.C., to coincide with the AGA's 100th anniversary.

Thanks in part to the efficiency, affordability and reliability, natural gas is the leading energy source for homes and businesses. Since 1990, approximately 600,000 miles of distribution mains and service lines have been added to the nation's natural gas system. This increase serves 17.5 million customers, an increase of 32 percent.

"The domestic abundance of natural gas offers an unprecedented opportunity to provide an affordable, clean energy that can also enhance our nation's economy and security," McCurdy says. "While the use of renewables continues to grow, the reality is that we need natural gas as a foundation fuel for the foreseeable future."

Today, natural gas fuels more than homes and businesses, it also fuels vehicles, helps generate electricity, supports other forms of renewable energy and it has grown in the manufacturing industry as a feedstock as well.

**Safe, Reliable Delivery**

This need for natural gas comes at a time when the supply is abundant and can grow thanks in part to development of shale plays across the North American continent. However, it also comes at a time of increased scrutiny and opposition. Despite pipelines being the safest mode for transporting the gas, the misinformed are proving to be a vocal minority, but AGA and similar organizations are doing their part to make sure the right information is out there.

"The natural gas industry offers a great product to meet the needs of our customers and the economy. A key challenge facing the natural gas industry is ensuring that discussions on the role of natural gas from an environmental perspective are based on current, accurate data," says Carl Levander, executive vice president of regulatory policy and corporate affairs for Ni-Source Inc. "AGA plays a key role in developing and sharing fact-based perspectives on current issues and serving as a voice for the value our product offers."

In its 2016 AGA Playbook, available at [aga.org/playbook](http://aga.org/playbook), the organization notes that natural gas utilities spend more than \$22 billion a year to help enhance the safety of natural gas distribution and transmission systems. The fact sheet also notes that thanks to the efforts of the utilities, in the last decade there has been a 40 percent decline in serious pipeline incidents along the natural gas distribution system.

In 2015, the AGA launched its Peer Review Program. The safety and operational practices review program is voluntary and participants receive the reviews from their peers, creating an open dialogue to share best practices and identify opportunities to better serve the customers. More recently, in February 2016, the board of directors updated the AGA's "Commitment to Enhancing Safety" document. The document outlines voluntary actions being taken by AGA or individual operators to help ensure the safe and reliable operation of the nation's natural gas pipeline system. The actions are broken into three groups - Building Pipelines for Safety, Operating Pipelines Safely and Enhancing Pipeline Safety.

"While there are many things AGA does, I particularly appreciate their role in bringing members together and providing a forum to discuss challenges facing the industry,"

Levander says. "This can lead to helping members develop a common point of view on important issues, which AGA uses effectively in advocating on many fronts."

In addition to improved safety, another benefit of the industry's aggressive capital improvement projects is a significant decrease in methane emissions from the natural gas system.

McCurdy points to a report published in 2015 by a team of researchers from Washington State University and sponsored by the Environmental Defense Fund. The report found that as little as 0.1 percent of natural gas delivered nationwide is emitted from local distribution systems. Researchers noted that the methane emissions were 36 to 70 percent lower than current EPA estimates, which are based on a study from the 1990's. This decrease is thanks to upgrades in metering and regulation stations, better detection equipment, changes in pipe materials and regulatory changes.

"In an effort that will help contribute to this declining trend, nearly 40 AGA-member natural gas utilities launched the EPA Natural Gas STAR Methane Challenge Program," McCurdy says. "This is a voluntary partnership between EPA and the U.S. oil and natural gas industry, focusing on achieving cost-effective and flexible methane emission reductions from natural gas operations."

**Always Advocating**

As with many trade organizations, AGA works closely with its member companies and serves as a liaison to regulators and policy makers in Washington, D.C., and at the state level and the organization is instrumental in its input on several pipeline safety-related acts.

"With an ever-changing regulatory landscape, it has become more and more important for gas utilities to compare notes on how best to react to those changes. In response, AGA has provided more opportunities for companies to share best practices and stay ahead of the curve," says Jeff Murphy, vice president and general manager of Dominion East Ohio. "Responding to proposed pipeline safety regulations can be extremely challenging. AGA has

Continued on page 3.

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