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**Subcommittee on Energy  
Committee on Energy and Commerce  
United States House of Representatives**

***Legislative Solutions to Make Our Nation's  
Pipelines Safer***

**June 19, 2019**

The American Gas Association (AGA) is pleased to provide this statement for the hearing record for the Subcommittee on Energy's June 19<sup>th</sup> hearing on *Legislative Solutions to Make Our Nation's Pipelines Safer*. AGA shares the same goals as safety advocates, the public, industry partners and Congress: Ensuring that America's pipeline system remains the safest, most secure, most reliable in the world. We look forward to working closely with the Energy and Commerce Committee on pipeline safety reauthorization legislation to help achieve these goals.

## **About the American Gas Association**

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 74 million residential, commercial and industrial natural gas customers in the U.S., of which 95 percent - nearly 71 million customers receive their gas from AGA members. Natural gas pipelines, which transport approximately one-fourth of the energy consumed in the United States, are an essential part of the nation's infrastructure. Indeed, natural gas is delivered to customers through a safe, 2.5-million-mile underground pipeline system. This includes 2.2 million miles of local utility distribution pipelines and 300,000 miles of transmission pipelines that stretch across the country, providing service to more than 177 million Americans.

## **Our Number One Priority: Pipeline Safety**

Distribution pipelines are operated by natural gas utilities, sometimes called "local distribution companies" or LDCs. The gas utility's distribution pipes are the last, critical link in the natural gas delivery chain that brings natural gas from the wellhead to the burner tip. As such, gas utilities are effectively the "face of the gas industry." AGA member companies are embedded in the communities they serve and interact daily with customers and with the state regulators who oversee pipeline safety locally. The distribution industry takes very seriously the responsibility of continuing to deliver natural gas to our families, neighbors, and business partners as safely, reliably, and responsibly as possible.

The domestic shale revolution has resulted in an abundant supply of clean, affordable, domestically produced natural gas. In turn, robust supply has translated into stable natural gas prices and an increasing number of utility customers who use this resource for residential and commercial applications like cooking, space and water heating. Alongside this tremendous opportunity comes the absolute necessity of operating safe and reliable pipeline infrastructure to help ensure dependable natural gas delivery. Unquestionably, pipeline safety is our industry's number one priority, and through critical partnerships with state and federal regulators, legislators, and other stakeholders to constantly improve pipeline safety, gas utilities continue to advance system integrity and provide increased access to natural gas service for homes and businesses nationwide.

Through the decades, a variety of materials have been used to make natural gas pipelines. The selection of materials has varied based on the date the pipeline was placed in service, the diameter and pressurization requirements of the pipeline and the characteristics of the local terrain. For much of the 20th century, cast iron was the choice for many utility systems because of its excellent resistance to corrosion. In the 1950s, steel replaced cast iron as the material of choice, mainly because of steel's flexibility and strength. There was a higher risk of corrosion with steel pipes, so many of the pipes had protective coating added and "cathodic" protection systems installed with the pipe to protect against corrosion. During the past 30 years, however, plastic pipe has predominated in gas utility distribution systems. Plastic pipe provides increased safety and integrity to pipeline infrastructure because it is resistant to corrosion, flexible, and may even be able to be installed in an existing pipeline. Since 2007, nearly 12,000 miles of cast iron main, 15,000 cast iron services, and over 20,000 miles of "bare" steel pipe have been replaced by plastic pipe.

Operators predominantly use “Distribution Integrity Management Programs,” (DIMP) to manage systems that consist of many different types of pipe, of different ages, at different pressures and in different environments. DIMP is a comprehensive regulation that provides an added layer of protection to the prescriptive federal regulations that have been in place since the 1970s, the state regulations that go beyond federal regulations, and the voluntary safety programs being implemented by local distribution companies. DIMP takes into consideration the wide differences that exist between natural gas distribution operators and allows operators to develop a DIMP plan that is appropriate for the operating characteristics of their distribution delivery system and the customers that they serve.

DIMP requires the following by all distribution operators, regardless of size:

- Understand their system (design, material, operating conditions, environment, maintenance and operating history, etc.)
- Manage the threats that could affect the integrity of the system (excavation damage, corrosion, potential for natural force damage, material defects, fitting failure, etc.)
- Assess and priority risks
- Identify and implement appropriate measures to mitigate risks
- Measure performance, monitor results, and evaluate the effectiveness of its programs, making changes where needed
- Periodically report performance measure to regulators

The use of DIMP helps operators prioritize replacement work and other measures that strengthen the gas system. Upgrading the nation’s pipeline system is just one of many steps that are being taken to fulfill the industry commitment to safety. Pipeline replacement projects have been a joint initiative between the industry, state regulators and commissioners, and the U.S. Department of Transportation’s Pipeline & Hazardous Materials Safety Administration (PHMSA). Currently, 43 states and the District of Columbia have established innovative rate mechanisms that allow operators to replace pipe faster. In the past 20 years, due to these efforts, the amount of cast iron pipelines in use has declined by approximately 52 percent, and the amount of cathodically unprotected and bare steel pipelines has decreased by approximately 46 percent. These systems have been replaced by modern plastic pipelines which provide increased gas utility system safety, resiliency and affordability to communities.

With 630,000 new natural gas utility customers being added every year, we are committed to meeting that increased demand with the safest pipeline infrastructure available. Since 1990, the use of modern plastic pipelines has increased by over 200 percent. Today, plastic pipe makes up 58 percent of the nation’s natural gas distribution main and 74 percent of the gas service line infrastructure. Cathodically protected and coated steel make up another 35 percent of the nation’s natural gas distribution main and 19 percent of the gas service line infrastructure.

Safety is a joint effort which engages customers, regulators, and policymakers at every level. We are committed to this partnership and our member companies proactively work with federal and state regulators, public officials, emergency responders, excavators, consumers, safety advocates, and the public to continue improving the industry’s natural gas distribution pipeline system. Our nation’s natural gas utilities invest nearly \$50,000 every minute into enhancing the safety of natural gas distribution and transmission systems. Furthermore, AGA and its member companies have adopted a *Commitment to Enhancing Safety* (Attachment 2). This commitment identifies actions, beyond regulation, to improve safety, and underscores the actions our member companies are taking every day to help ensure that America’s 2.2 million miles of natural gas distribution pipeline operate safely and reliably.

## Industry's Demonstrated Commitment to Safety

The natural gas distribution industry has demonstrated that it can increase the delivery of natural gas while continuously making improvements in safety. PHMSA data shows that significant distribution incidents, those that result in a death, injury or property damage of greater than \$50,000, and serious incidents, those that result in a death or injury, have declined over the past 20 years. Significant incidents have declined 16 percent and serious incidents have declined 35 percent. Notably, the primary cause of these incidents is excavation damage, which accounted for 38 percent and 27 percent of significant and serious incidents respectively in 2018. The April 10, 2019, incident in Durham, NC, which resulted in two deaths and 25 injuries was the result of third-party excavation damage.

While we have seen improvements, clearly more needs to be done. One incident is one too many. The National Transportation Safety Board (NTSB) is still investigating the tragic incident that occurred on September 13, 2018, in the Merrimack Valley in Massachusetts, but has stated the incident was due to an over-pressurization of a low-pressure natural gas distribution system.

Following the Merrimack Valley incident, AGA and the industry took quick action based on known information including:

- Holding conference calls to brief members and key stakeholders on what was publicly known about the incident
- Issuing a survey to its members to gather practices in place that are intended to prevent over-pressurization
- Collecting information from a variety of sources including technical publications and industry experts
- Holding a roundtable of several hundred operators/service providers to review the practices submitted and gather additional options to prevent over-pressurization
- Bringing together subject matter experts from over 30 companies to analyze the cumulative results and identify leading practices

Using this information, AGA and its members developed a white paper: *Leading Practices to Reduce the Possibility of a Natural Gas Over-Pressurization Event*<sup>1</sup>, which was issued just two and a half months after the incident. We have made this white paper widely available, sharing it with AGA members and other parts of the industry, including PHMSA, the NTSB, state regulators and public representatives such as the Pipeline Safety Trust.

Following the incident, AGA also formed a new Board-level Task Force focused on Safety, Resilience, Reliability, and Security. The Task Force is looking at what actions beyond our current leading practices are needed to raise the bar in these key areas. Most recently, the AGA Board approved a resolution for all AGA member companies to implement Pipeline Safety Management Systems or API RP1173 within the next 3 years.

AGA also held a Crisis Leadership Summit in April. The Summit included a half day workshop conducted by the NTSB focused on its family assistance operations and how pipeline operators can work collaboratively with the broader response community to meet the needs of affected individuals and

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<sup>1</sup> Leading Practices to Reduce the Possibility of a Natural Gas Over-pressurization Event (November 26, 2018) at <https://www.aga.org/globalassets/safety-and-operations-member-resources/leading-practices-to-prevent-over-pressurization-final.pdf>

communities. The Summit also included case studies and presentations on crisis readiness, internal preparation and coordination, stakeholder engagement, lessons learned from significant events and mutual assistance. AGA will also hold a similar workshop in June.

Finally, to address the NTSB recommendation following the Merrimack Valley incident that operators have certain documents or plans sealed by a professional engineer prior to commencing work, AGA created a white paper *Skills and Experience for Effectively Designing Natural Gas Systems*<sup>2</sup>. The purpose of this document is to provide guidance to operators on how to develop, maintain, and enhance the key technical competencies required to safely and effectively perform engineering work functions for natural gas systems. AGA plans to incorporate NTSB comments on the white paper for a first revision to ensure it captures NTSB intention.

## **AGA Supports Reasonable and Practicable Regulations**

AGA supports reasonable and practicable federal regulations that improve pipeline safety. Further, AGA supports recommendations from the NTSB that are reasonable, applicable and reflect stakeholder input. AGA also supports relevant recommendations from the U.S. Department of Transportation Inspector General, Government Accountability Office, National Association of Pipeline Safety Representatives (NAPSR) and the National Association of Regulatory Utility Commissioners (NARUC). In addition, per an agreement with the federal government, state public utility commissions are empowered by statute to direct and enforce safety standards for pipeline facilities and to regulate the safety practices of LDCs. Public utility commissions enforce federal safety standards as they relate to design, installation, operation, inspection, testing, construction, extension, replacement and maintenance of pipeline facilities. State public utility commissions may also prescribe additional standards, beyond those set by the Federal government, provided they are not in conflict.

## **Raising the Bar on Safety**

AGA and its members' safety efforts go far beyond regulation and are driven by our dedication to the continued enhancement of pipeline safety. In fact, AGA's board adopted AGA's *Commitment to Enhancing Safety*, a public declaration that LDC's are committed to proactively collaborating with federal and state officials, emergency responders, excavators, consumers, safety advocates and the public to continue improving the industry's longstanding record of providing natural gas service safely, reliably and efficiently. This document also reflects LDCs' willingness to make safety an intrinsic part of their core business functions, including pipeline design and construction, operations, maintenance and training, as well as more public facing programs like workforce development, pipeline planning stakeholder engagement, and first responder outreach. While these business activities will vary with each operator, it is the consensus of AGA members that implementing these priorities will help enhance pipeline safety, improve gas utility operations, reduce greenhouse gas emissions and provide better public accountability.

AGA's members also participate in peer reviews, benchmarking activities, the development of publications, and industry events that allow for the sharing of leading practices. This includes but is not limited to the following:

- The AGA Peer Review and Gas Utility Operations Best Practices Programs are voluntary safety and operational practice programs that allow local natural gas utilities throughout the nation to

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<sup>2</sup> Skills and Experience for Effectively Designing Natural Gas Systems (April 8, 2019) at [https://www.aga.org/contentassets/2ebcf84d71484f89a1b30dd26f1721ef/skills-and-experience-for-effectively-designing-ng-systems\\_final.pdf](https://www.aga.org/contentassets/2ebcf84d71484f89a1b30dd26f1721ef/skills-and-experience-for-effectively-designing-ng-systems_final.pdf)

observe their peers, share leading safety practices and identify opportunities to better serve customers and communities

- AGA and its members have developed hundreds of technical publications to assist operators. Two of the more recent publications are, *Leading Practices to Reduce the Possibility of a Natural Gas Over-Pressurization Event*<sup>3</sup> and *Guidelines to Understanding Pipeline Safety Management Systems* (Attachment 3)
- AGA's 2019 spring committee meetings, Operations Conference and Exhibition included nearly 20 technical committee meetings, more than 180 speakers, over 275 exhibitors, and more than 2800 attendees, all focused on the sharing of technical knowledge, ideas and practices to promote the safe, reliable, and cost-effective delivery of natural gas to homes and businesses across the country

### **PIPELINE SAFETY ACT REAUTHORIZATION PRIORITIES**

AGA and its members support reasonable, flexible, risk-based, and practicable updates to pipeline safety regulation that build upon lessons learned and evolving improvements to safety and pipeline technology. Following this path leads to the sort of regulatory certainty our industry needs to better serve our customers. AGA asks the subcommittee to consider four high-level principles when drafting reauthorization legislation:

**(1) Preserve Industry Engagement in Pipeline Safety Rulemaking.** Reauthorization legislation should avoid legislative prescription and uphold the PHMSA regulatory process which allows all stakeholders a role in developing new safety regulations. Integral to PHMSA's pipeline safety rulemaking capability is the role the Gas Pipeline Advisory Committee (GPAC) plays in providing stakeholders a better understanding of the goals of proposed regulations by allowing them to ask questions, provide input, offer alternate regulatory language when the proposed language fails to meet intended goals, and come to consensus on final rules that are technically feasible, reasonable, cost effective and practicable.

**(2) Support Appropriate Flexibility in Rulemaking.** Any new rule authorized by pipeline safety reauthorization legislation should recognize that every pipeline distribution system is different in terms of design, use, age, materials, location, external risks, operating history and current operating conditions. Therefore, efforts to reduce risk in one system may not work in a different system. Any new safety rulemaking should recognize the differences between systems and avoid one-size-fits-all safety equipment or process mandates. Due to the distinct differences amongst distribution systems, prescriptive regulations may result in mis-prioritization of safety risks.

**(3) Don't Obstruct Ongoing Pipeline Replacement Programs.** Due in large part to active support by gas LDCs and other pipeline safety advocates, 43 states and the District of Columbia have implemented pipeline replacement programs either via legislation or regulation. These replacement programs offer the public continuously improving pipeline safety, environmental benefits, and more cost effective and consumer friendly gas utility operations. Reauthorization legislation should not saddle effective state replacement and upgrade programs with counterproductive new federal mandates that delay these replacements or require replacement faster than that work can be safely, and cost effectively, accomplished.

**(4) Provisions Should Focus on Improving Pipeline Safety.** Pipeline safety reauthorization should focus on provisions that have a direct nexus to improving pipeline safety and related government and industry programs and avoid extraneous legal, regulatory and administrative provisions that hamper the PHMSA regulatory process or increase the possibility of pipeline safety litigation.

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<sup>3</sup> *Leading Practices to Reduce the Possibility of a Natural Gas Over-pressurization Event* (November 26, 2018)

AGA intends to leverage the substantial operations and engineering expertise of our more than 200 natural gas member companies to assist Congress in producing practical pipeline safety reauthorization legislation that reflects solid engineering principles and operational realities. To that end, we offer the following comments on a number of issues we anticipate will come up during the debate:

## **Cost-Benefit Analysis Requirements are Necessary in Rulemaking**

Under current law, a cost-benefit analysis must be conducted during the PHMSA rulemaking process. The current requirements promote effective, reasonable, transparent and legally-sound regulations. A cost-benefit analysis provision helps gain consensus on regulations, rather than delay rulemakings. The clear and specific requirements in the Pipeline Safety Act lead to regulations that are more effective and legally sound, with a greater likelihood that PHMSA's rulemakings will survive any legal challenge to the sufficiency of the analysis.

AGA believes that the role PHMSA's Gas Pipeline Advisory Committee (GPAC) plays in subjecting rulemakings to cost benefit analysis is integral to PHMSA's pipeline safety rulemaking capability. Overall, AGA opposes making operational changes to GPAC activities as a method for streamlining the regulatory process. In fact, we believe the PAC process speeds up rulemaking since it provides final rules that have been vetted by industry, other government agencies, and the public for technical feasibility and practicability. Recent interim final rules where PHMSA deviated from the process have resulted in litigation or stays of enforcement to correct issues missed due to the lack of GPAC involvement. Specifically, we oppose eliminating the GPAC cost-benefit analysis for two reasons. First, from a process perspective, none of the recent regulations that failed to meet legislative deadlines were delayed due to the cost-benefit analysis process. More importantly, cost-benefit analysis serves to protect consumers because regulatory costs are ultimately borne by industry customers.

## **Traceable, Reliable, and Complete Distribution Records Requirements**

Not all records are equal in importance. Data that does not advance pipeline safety should not be managed with the same rigor as data that is essential for pipeline safety. AGA supports traceable, reliable, and complete record requirements for essential records for new or fully replaced distribution pipelines.

## **Performing a Pressure Test is One of Six Viable Methods to Verify the Maximum Allowable Operating Pressure (MAOP) of a Transmission Pipeline**

The House Energy and Commerce Committee's draft legislation proposes to limit operators to one method for reconfirming the MAOP of a transmission pipeline. During the Gas Pipeline Advisory Committee (GPAC) meetings for *The Safety of Gas Transmission and Gathering Lines Rulemaking*, five additional methods were identified and voted on by the GPAC as appropriate methods for reconfirming MAOP. AGA supports the use of all six methods as practicable solutions for reconfirming MAOP wherever required.

Additionally, AGA and its members have concerns with requiring operators to perform a spike test to reconfirm MAOP for segments already in operation. A spike test exposes pipe to pressures higher than what the pipe experienced during testing at the mill and well above the pressure at which it will ever operate. Industry experts know that spike tests are an integrity management tool used for the narrow option of proving the stability of specific material-related anomalies (including cracks). However, spike tests are **not** appropriate to reconfirm pipeline MAOP. Spike tests must be used selectively in the right

circumstances; otherwise they jeopardize the integrity of the pipeline and could cause it to fail.

## **Direct Assessment is a Viable and Effective Method for Performing Integrity Assessments to Manage the threat of Corrosion**

The House Energy and Commerce Committee's draft legislation proposes to eliminate the use of Direct Assessment (DA) as a method for performing integrity assessments on transmission pipelines. DA is a proven methodology used to identify pipeline defects caused by external corrosion, internal corrosion, or stress corrosion cracking. This type of integrity assessment is used by operators, predominantly for transmission pipelines unable to be assessed by an In-Line-Inspection (ILI) tool. The value of DA is that the pipeline does not have to be taken out of service and it provides the operator with a forward-looking view of conditions that can lead to corrosion. In comparison, ILI can only indicate areas where corrosion has already occurred.

AGA is not aware of any pipeline incident due to corrosion after the pipeline was inspected by DA. This indicates that DA is a viable and effective way to find pipeline defects caused by corrosion. AGA recognizes that DA is not effective to identify other threats.

## **Risks Associated with District Regulators**

Recommendations have been made which require operators to eliminate common modes of failures at their district regulator stations. AGA members recognize that there is a need for operators to re-evaluate the risks associated with district regulator stations following the tragic events that occurred in Merrimack Valley. However, the recommendations apply a one-size-fits-all methodology and overlooks uniqueness of each operator's system. Last fall, AGA published its *"Leading Practices to Prevent Over-Pressurization,"* which provides 63 practices for operators to consider for implementation. These practices provide options to provide overpressure protection at all points in the natural gas delivery supply chain for all operating pressures.

Any federal regulation which develops additional rigor around requirements for district regulator stations should follow the existing rulemaking process. Additionally, it is important to consider the impact of requiring aggressive timelines for making updates to existing stations. Mandating that these updates be made within a limited timeframe may divert resources from completing higher-priority safety work, and inadvertently affect pipeline safety. Any new regulations should consider how the threats associated with regulation stations compare holistically with an operator's system threats.

## **Effective Emergency Response and Communication Plans are Vital**

Every gas event is unique and establishing communication with first responders as soon as practicable after discovery of an incident benefits public safety. However, mandating communication within 30 minutes may not allow operators time to perform an initial assessment, confirm that the event is related to natural gas, or that the event is on an operator's pipeline.

AGA supports prompt emergency response and enhancing communication with first responders, affected public, and relevant public officials as soon as practicable after discovery of an incident. It is reasonable to require operators to implement their communication plan as soon as practicable after an operator has confirmed discovery of a gas pipeline emergency.

## **Operators Should Share Meaningful Information that Educates the Public About Pipeline Safety**

Recommendations have been made for natural gas operators to share procedures, integrity management programs and integrity management results with emergency responders, public officials, and the general public. Currently, federal and state pipeline safety regulators have access to this information and pipeline operators are required by law to develop and implement public awareness programs to help educate the public, appropriate government organizations, and others on damage prevention, possible hazards associated with an unintended release, physical indications that a release could have occurred, and other information.

AGA and its members are concerned that sharing sensitive information publicly could compromise the safety of the natural gas system. An operator's Operations & Maintenance Plan, Integrity Management Plan, and Integrity Management results contain sensitive information that could lead to pipeline safety issues if given to those that want to cause harm to a pipeline system. In addition, this information is extensive, may become difficult to manage and navigate even for another natural gas operator, and each utility has specific terminology and processes unique to their system.

AGA has had many discussions with emergency responders who have made it clear they want condensed, relevant information that is simple to understand. The information being proposed to provide to emergency responders does not meet their needs and would not be helpful during an emergency, outage, or incident. Operators already conduct outreach to both public and relevant stakeholders within their emergency response plans.

Congress should leverage the expertise of PHMSA and the diversity of the agency's advisory committees to evaluate and determine whether additional information should be made available to first responders and to the public, instead of issuing a self-executing mandate. Since the advisory committees include emergency managers, public safety advocates, state and federal regulators, and pipeline operators, the committees are well-suited to ensure that first responders have the pipeline safety information that they need. Similarly, AGA believes that that advisory committees would successfully identify an appropriate balance between pipeline companies' business needs and practical limitations and citizens' rights to understand the pipelines in their communities.

## **Pipeline Safety Management Systems (PSMS) Enhance Pipeline Safety**

American Petroleum Institute Recommended Practice (RP) 1173 (July 2015), PSMS, outlines a systematic approach to managing pipeline safety and improving overall pipeline safety performance. The core principal of PSMS, which is the "Plan-Do-Check-Act" cycle, requires operators to determine the steps to be taken to evaluate and enact changes/improvements within 10 specific areas. Ultimately, this requirement drives the industry towards its zero-incident goal by providing that the various components of PSMS are regularly reviewed and continually evolving.

The industry and other stakeholders, including PHMSA, believe that PSMS will enhance pipeline safety and improve safety culture if properly implemented. Significant efforts have been underway since the release of PSMS to promote, pilot and share learning on the benefits of implementing PSMS. Any prescriptive regulatory requirements to implement PSMS will limit the effectiveness of the continuous improvement cycle and could shift the focus from safety culture to compliance culture. In addition, new

regulatory requirements will stall current PSMS implementation efforts to provide compliance with regulations, delaying any potential benefits from implementation.

AGA supports the promotion of PSMS and the development of system(s) that promote self-disclosure and a collaborative culture between regulators and operators, like the program in place with FAA. As noted earlier, the AGA Board of Directors has recommended that all of its members begin implementation of PSMS in their organizations. This will also address the issue of Management of Change.

## **Management of Change Principles are Important for Significant Work**

Some have argued to include provisions that require natural gas distribution systems have a detailed procedure for Management of Change. Management of Change is a best practice to ensure that safety, health and environmental risks and hazards are properly controlled when an organization makes changes to their facilities, operations or personnel.

The industry is supportive of Management of Change for significant work, such as capital main installation or replacements, changes to an engineering design, or changes to a standard. In fact, in May 2019, the AGA Board passed a resolution recommending all AGA member companies adopt API RP1173 (which includes Management of Change provisions) within the next 3 years. This will help reduce the risk of inadvertently introducing a new hazard or unknowingly increase the risk of an existing hazard.

Each operator's gas system is unique and subject to different system threats and risks. Operators should identify significant work relevant to their unique system and apply Management of Change principles to important work such as changes to technology and equipment, and procedural and organizational changes within their company systems.

These processes covered by a PSMS program should clarify roles and responsibilities and should ensure that personnel have knowledge and skills specific to natural gas pipelines. Management of Change principles should identify industry-specific knowledge, competencies, and skills employees and contractors require to perform work processes.

## **Establishing Safety Incentives Helps Promote Safety Culture**

AGA strongly supports recommendations to develop incentives for operators who foster a safety culture that exceeds minimum requirements or embraces best practices. Our members strive to identify measures that are innovative and further safety practices across their system and to share these initiatives with their counterparts by participating in industry forums, conferences, and discussions. Providing non-financial incentives for intrastate and interstate natural gas pipeline operators encourages pipeline operators to continuously improve and enhance the safety of their pipeline system.

## **Voluntary Information Sharing (VIS) Program**

AGA is supportive of creating a VIS program that allows pipeline operators, vendors, and regulators to share information critical to pipeline safety and lessons learned. Over the past several years, the industry, including operators, vendors, regulators and the public, have participated in a VIS working group to develop a framework for implementing VIS for transmission and distribution pipelines. One critical component to an effective VIS program will be a safe harbor provision that encourages self-reporting. The Secretary should ensure that if a VIS program is started, it follows the comprehensive list of

recommendations provided by the VIS working group report as the working group has made clear that a VIS program can only be fully successful if all recommendations are followed.

To ensure participation within the VIS, legislation will need to be in place that allows operators to provide information confidentiality without exposure to punitive measures. AGA recommends that the VIS include safety initiatives as described above within this program and include all stakeholders (all segments of the natural gas and hazardous liquid value chain, including manufacturers, service providers, regulators, and the public). The Secretary should establish a VIS executive board that is represented by operators, regulators, and public safety advocates to address trust barriers described in the VIS report. Finally, the VIS should not rely solely on congressional funding to sustain the program long term. The VIS executive board should develop long term strategy for funding that includes public – private partnerships to ensure the long-term stability of the program.

## **Professional Engineer Licensing Requirements Do Not Enhance Pipeline Safety**

A Professional Engineer (PE) license does not demonstrate that an individual has the specified system knowledge or experience required to understand natural gas systems and make decisions related to public safety. This is especially true since there is not a PE license specifically for natural gas pipelines. For tasks that require an engineer, it is more important for an individual to have both an engineering degree and knowledge of the natural gas system. Having processes in place to ensure applicable technical expertise, design review and approval, with Management of Change incorporated into the process, will have the greatest impact on pipeline safety.

## **A Mandamus Clause Should Not be Included in 49 U.S.C. Section 60121**

The House Energy and Commerce Committee’s draft legislation includes a mandamus clause that would allow local and state governments, and others via “citizen lawsuits”, to ask the courts to compel PHMSA to carry out its statutory pipeline safety responsibilities. Advocates argue that this is particularly important given PHMSA’s perceived inability carry out its mandated responsibilities. AGA believe that expanding citizen suit provisions of § 60121 to allow mandamus-type actions against PHMSA would result in more litigation, which would require PHMSA to redirect its resources to defending itself in court instead of executing its statutory responsibilities to ensure pipeline safety. Pipeline safety is a highly technical and complex area of the law. The regulatory agency with specific subject matter expertise, not the courts, is best positioned to make decisions regarding how to establish regulatory priorities, promote new technologies, balance costs and benefits, and ensure public safety.

## **Proposed Changes to Criminal Penalties Provisions**

The House Energy and Commerce Committee’s draft legislation proposes to amend the Pipeline Safety Act’s criminal penalties provision (49 U.S.C. § 60123) by replacing the current “knowingly and willfully” language with “knowingly or recklessly”. The current version of 49 U.S.C. § 60123 allows for criminal prosecution of those accused of knowingly and willfully violating the law. This holds those who engage in egregious, intentional misconduct accountable and ensures compliance with the law. There is no history of conduct in the industry that merits expanding the current criminal liability standard and there is insufficient evidence to suggest criminally culpable conduct is not adequately addressed within the existing legal framework.

Safety is the top priority for America’s natural gas utilities. A bedrock of enhancing safety throughout the

industry is the promotion of a culture that encourages self-disclosure and self-reporting. The proposed revision to the standard of criminal liability may chill such self-reporting and be counterproductive to further developing a strong safety culture and creates a risk of unintentionally criminalizing actions and decisions pipeline operators make when assessing and managing pipeline risk priorities. As such, AGA does not support expanding criminal liability to include “recklessness” under § 60123.

PHMSA has proposed strengthening the existing criminal penalty measures for damaging or destroying a pipeline facility. We hope that pipeline safety legislation will find a way to differentiate between the constitutionally guaranteed right to peacefully protest and actions that jeopardize people, property and our environment. The safety of our employees, customers and communities is the top priority for America’s natural gas utilities and it is important to ensure only trained professionals come in contact with natural gas equipment. Anything else threatens the safety of everyone on that site, our environment and the communities around those facilities. Additionally, this interference impacts service to customers who rely on natural gas to heat their homes, warm their water, cook their food, run their businesses, power their factories, fuel their power plants, and provide essential energy to schools and hospitals.

## **Civil Penalties Should Not be Increased**

Both the Markey–Trahan bill and the House Energy and Commerce Committee’s draft legislation propose significant increases to civil penalties available under the Pipeline Safety Act. AGA believes that existing penalties are sufficient to deter operators from violating the law and the proposed increases will not advance the goals of deterrence and swift resolution of safety issues. The proposed hundredfold increase in the Markey–Trahan proposal and the elimination of any cumulative cap on civil penalties in the House Energy and Commerce Committee’s proposal are excessive and will, if implemented, be counterproductive to enhancing pipeline safety and reliability. In fact, imposing excessive penalties may actually divert resources away from improving pipeline safety as fines are not necessarily reinvested in pipeline safety programs. Federal civil penalties are just one available enforcement tool available to regulators. For example, regulators can impose compliance orders in response to a violation that require an operator to implement specific actions to remedy a violation. Implementing a compliance order can cost far more than the amount of a civil penalty while resulting in meaningful safety improvements. PHMSA can also issue corrective action orders and safety orders to address conditions posing an integrity risk, regardless of whether a violation has occurred. These other enforcement mechanisms provide real, tangible results. Current civil penalty amounts, which were increased in the last round of pipeline safety reauthorization, are effective an effective deterrent and should remain unchanged.

## **Increases in User Fees Negatively Impact Customers**

The House Energy and Commerce Committee’s draft legislation proposes to significantly increase the authorized appropriations for the Secretary of Transportation. AGA supports PHMSA’s collection of pipeline User Fees to fund its natural gas safety activities and initiatives and also supports reasonable and rational increases to these fees.

Proposing significant increases adversely affects natural gas customers since these costs are ultimately borne by natural gas customers. Additional scrutiny should be given to the fully understand if the additional funding is required and to protect customers from unsubstantiated increases.

## **Research and Development Helps Foster Innovation**

AGA supports R&D pilot programs that promote safety, efficiency, and secure transportation of gas.

PHMSA gaining the flexibility to conduct pilots for R&D can assist in laying a foundation for innovative solutions to long term issues. The funding for safety pilot programs should expand to intrastate transmission and distribution pipelines. Limiting R&D and pilot programs to only interstate transmission pipelines will prevent research and innovation opportunities and will inadvertently narrow the focus of safety, efficiency, and secure transportation to only a portion of the country's pipeline infrastructure.

Currently, the nation's infrastructure of distribution pipeline systems has 7 times more mileage than the country's transmission systems. Failing to include distribution systems into pilot programs will significantly overlook an opportunity for all the nation's natural gas and liquid pipeline infrastructure. AGA recommends that PHMSA is given authority for pilot programs that include interstate and intrastate transmission and distribution systems. AGA is committed to improving the transparent collaborative relationship with PHMSA that has historically enhanced pipeline safety R&D.

## **Remote-Controlled and Automatic Shutoff Valves Provide Benefits**

Additional scrutiny has been placed on installing automatic shutoff valves and remote-controlled valves (ASVs and RCVs). Operators have installed ASVs on pipeline segments that have not experienced wide pressure fluctuations and are not expected to experience wide pressure fluctuations in the future, and where the risk analysis indicates the ASV will provide added protection. PHMSA is working to publish its notice for proposed rulemaking (NPRM) which addresses ASVs and RCVs for new and fully replaced transmission pipelines. The primary benefit of an ASV or RCV is the ability to control the amount of natural gas released after the incident has already occurred. AGA supports PHMSA in developing a proposed rule to modify 49 C.F.R. § 192 for ASVs and RCVs on new and fully replaced transmission pipelines.

## **Conclusion**

America's gas utilities' commitment to pipeline safety relies on sound engineering principles and technological advance, a trained professional workforce, effective community partnership and a strong partnership with state pipeline safety authorities and PHMSA. As pipeline safety reauthorization legislation is drafted this year, AGA encourages Congress to (1) embrace PHMSA's role as regulator with commensurate funding, (2) support the pipeline safety rulemaking process by passing legislation that does not contradict guidance already provided by the Gas Pipeline Advisory Committee for issues such as MAOP verification and DA and continues collaborative stakeholder engagement in the regulatory process, (3) recognize the great strides in pipeline safety engineering and operating practices that natural gas utilities are putting into practice across the country, and (4) exercise discretion as Congress considers changes to law or regulation that may prove tangential or counterproductive to the government and gas industry's mutual interest in the constant improvement of pipeline safety practices and technology and our mutual interest in overall public safety.