American Gas Association

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Ms. Samantha Dravis
Senior Counsel and Associate Administrator for Policy
Regulatory Reform Officer for Executive Order 13777
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Identification of Regulations for Repeal, Modification or Replacement under Executive Order 13777, 82 Fed. Reg. 17793 (April 13, 2017) (EPA Request for Comment) - **Docket No. EPA-HQ-OA-2017-0190**

Dear Ms. Davis:

The American Gas Association (AGA) appreciates the opportunity to suggest how certain EPA regulations could be repealed, modified or replaced to better serve EPA's mission, while reducing unnecessary duplication and burdens that divert resources from infrastructure projects and ongoing maintenance and upgrades needed to ensure the safe reliable delivery of energy. A more efficient approach will help achieve EPA's environmental goals in a less burdensome manner, and it will allow our members to channel more resources to improve their systems and increase good-paying, career utility jobs that sustain middle class families in communities across the country.

The American Gas Association, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 73 million residential, commercial and industrial natural gas customers in the U.S., of which 95 percent — more than 69 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international

natural gas companies and industry associates. Today, natural gas meets more than one-fourth of the United States' energy needs.

I. Air Office – Revise 40 C.F.R. Part 98 Subpart W and Repeal Subpart NN

A. Revise Subpart W to Reduce Unnecessary Burdens and Improve Accuracy:

The Subpart W Reporting Program is providing value to AGA members as a source of credible data to demonstrate their progress in reducing emissions. However, several revisions are needed to improve the accuracy of the data and to eliminate unnecessary cost burdens that divert resources from more productive, job-creating energy projects. We believe a few simple changes can achieve this goal.

1. Replace Unnecessary Leak Surveys with Emission Factors Based on Robust Data:

Companies in the natural gas industry have conducted annual Subpart W leak surveys of equipment since 2011, and now have a robust set of data that could be used to establish updated emission factors. While natural gas operators will of course continue to perform leak detection and repair to ensure safety - as required pursuant to Department of Transportation (DOT) pipeline safety regulations and related state requirements - there is no value or benefit in performing duplicative surveys using different timing and criteria for Subpart W. The surveys were originally required because EPA lacked data on certain emission sources. The costly Subpart W surveys can now be replaced with a simple arithmetic calculation using emission factors based on data collected to date. An emission factor approach for calculating GHG emissions is common for many sources in Subpart W, as well as other industries that report under the Part 98 reporting program.

This change should be made to eliminate, for example, Subpart W leak surveys under 40 C.F.R. 98.233(q) for natural gas Transmission to Distribution pressure reduction stations (T-D transfer stations), Liquefied Natural Gas (LNG) import-export terminals, peak-shaving LNG storage facilities, and transmission compression facilities. Instead of continuing these costly annual surveys, EPA should establish default emission factors based on the past six years of

reporting data, with an option for companies to use their own company-specific emission factors based on their own past Subpart W leak survey data.

Similarly, transmission compressor station and underground storage operators are required to conduct annual leak measurements under 40 C.F.R. 98.233(o) and (p) for reciprocating and centrifugal compressors, and under 40 C.F.R. 98.233(k) for scrubber dump valve leakage through condensate storage tank vents. These costly annual surveys should be replaced with default emission factors based on the past six years of reporting data, with an option for companies to use their own company-specific emission factors based on their own past Subpart W leak survey data. The leak survey requirement for other compressor station or storage facility components required under 40 C.F.R. 98.233(q) should also be replaced with emission factors.

2. Improve Accuracy by Updating Emission Factors to Reflect Current Practices:

To improve the accuracy of Subpart W data, EPA should update the default emission factors promptly as new, reliable scientific data becomes available. For example, Subpart W should use the same updated emission factors for natural gas distribution pipe as are already adopted for use for the annual EPA Inventory, based on the peer-reviewed study by Dr. Brian Lamb at Washington State University (WSU) published in the Journal of Environmental Science & Technology (March 2015). It is inaccurate and, frankly, misleading to continue overestimating natural gas emissions by using emission factors developed in a study conducted more than 20 years ago that evaluated a much smaller data set and reflected emissions from equipment and practices that have changed and improved dramatically since 1992. Additional robust data is expected to be available in 2018 from a series of studies co-funded by industry and Department of Energy (DOE). The Subpart W default emission factors should be updated as that new data becomes available.

As to the emission factor for metering and regulating (M&R) equipment in particular, there is also no legitimate reason to continue applying an outdated and highly-inflated emission factor to this equipment. At least in the past, EPA appears to have been under the impression that M&Rs emit more if they are located below grade rather than above grade. Modern

measurement data demonstrates this is not true. The same type of equipment is used in both above and below grade M&Rs and their emissions are far lower than the outdated default emission factor implies. EPA already allows up-to-date, company-specific emission factors for above grade M&Rs. The agency should allow the same updated emission factor for below grade M&Rs – based on the past six years of Subpart W emission surveys.

3. Eliminate Subpart W Throughput Reporting:

EPA should delete the recently added requirements in 40 C.F.R. Part 98, § 98.236(aa)(9) to report the quantity of natural gas received, delivered, stored, consumed and stolen. This provides no useful data for the purposes of Part 98 and duplicates natural gas throughput reporting under Subpart NN, which in turn already duplicates reporting to the DOE Energy Information Administration (EIA), as we note below.

B. Eliminate Throughput Reporting under Subpart NN:

EPA should review Subpart NN and consider, in a notice and comment rulemaking, whether to repeal it. At a minimum, Subpart NN reporting of natural gas deliveries to customers should be eliminated for natural gas distribution companies (LDCs), as this largely duplicates data companies are required to report to the DOE EIA and serves no useful purpose. The volume of natural gas delivered to customers in any year is mainly a function of annual weather fluctuations (i.e. colder or warmer winters), not commercial or industrial process changes.

II. Water Office

Review and Revise Waters of the U.S. Rule:

The Administration has already initiated a review of the federal rule defining the scope of waters of the United States (WOTUS). We want to emphasize the need for a revised rule that provides a clear dividing line between water features that are or are not subject to federal jurisdiction – without the need for subjective, arbitrary and unduly burdensome case-by-case

decisions that can delay natural gas utility and pipeline projects, impede job creation, impede economic development projects to be served by the pipeline, and increase costs.

III. OEM - Federal Standards for Aboveground Storage of Hazardous Substances

AGA is a member of the Utility Solid Waste Activities Group (USWAG), and we support USWAG's request that the Office of Emergency Management (OEM), within EPA's Office of Land and Emergency Response (OLEM), should avoid duplicative, unnecessary or proscriptive requirements in the pending federal standards for the aboveground storage of hazardous substances. This rulemaking is of interest to AGA because it could adversely affect operations for natural gas utilities. We agree with USWAG that any such regulatory program should allow for performance-based controls, as a more prescriptive approach could harm job creation, impose unnecessary burdens, and/or impose costs that exceed benefits.

IV. ORCR — Revise RCRA Generator Requirements for Remote Sites

AGA also agrees with USWAG that EPA should revise a recent final rule regarding hazardous waste generator requirements that imposed many stringent changes without commensurate improvements in environmental safety. The rule originated in OLEM's Office of Resource Conservation and Recovery (ORCR).[1] Of particular concern for natural gas utility operations is a provision in the preamble of the rule in which EPA "clarified" that states were not permitted to provide relief for the consolidation of hazardous wastes from remote or unstaffed sites. As USWAG notes, EPA provided limited relief for this type of consolidation in the final rule and then contended that state programs that had provided other types of commonsense relief for the same concerns were not permitted under the hazardous waste regulations.[2] This is highly disruptive for utility operations, particularly given that several states have already provided relief by allowing unknown wastes to be collected and consolidated from remote sites and postponing

[1] 81 Fed. Reg. 85732 (Nov. 28, 2016).
[2] *Id.* at 85776.

hazardous waste determinations until the waste is received at a staffed facility, or by authorizing the direct transfer of hazardous waste to central locations. A similar problem arises in the preamble where EPA suggests that the relief the rule offers is the only available for episodic generation events, when in fact, some states have used their enforcement discretion to address abnormal hazardous waste generation patterns. We urge EPA to acknowledge and encourage the availability of state programs, such as the ones mentioned above, that achieve equivalent environmental protections in a far more practical and cost-effective manner. This would be consistent with the role of RCRA-delegated states as the primary regulator for facilities located within their jurisdictions.

V. OPPT & ORCR - Revise and Simplify Federal PCB Regulation

EPA should review, revise and simplify certain provisions in the federal regulations governing the use, remediation and disposal of polychlorinated biphenyls (PCBs). The PCB regulations adopted in 1998[3] under 40 C.F.R. Part 761 were tailored to the agency's understanding of interstate pipelines, not natural gas local distribution systems, and are long overdue for modernization and simplification.

Under the Toxic Substances Control Act (TSCA) Section 6(e) (15 U.S.C. § 2605(e)), the use of PCBs other than in a "totally enclosed manner" was banned after 1977 except as authorized by EPA regulatory action. EPA included a use authorization with respect to PCBs in pipeline systems because an EPA-commissioned human health risk assessment in 1984 demonstrated the PCBs in enclosed pipelines do not pose an unacceptable risk to human health. PCBs were used in the last century as a fire retardant to improve safety in some products such as compressor lubricants and electric transformer fluid, but their manufacture and purchase ended in the last century. Their occasional presence and discovery makes it appropriate for EPA to maintain some form of "use authorization," but this can be

[3] The so-called "PCB Mega Rule" in 1998 was last significant amendment to the PCB regulations. See 63 Fed. Reg. 35384 (June 29, 1998).

accomplished in a less burdensome manner, especially for operators that did not originally introduce PCBs into their own systems, but rather received them from an upstream source.

The use authorization rule is now a relic of a former time, and the rule makes even less sense now than it did originally. EPA staff have recognized this and have suggested they may consider a new approach – replacing the old rule with a very simple authorization for the presence of PCBs in natural gas utility and pipeline systems, provided the operator follows reasonable requirements for managing and disposing of PCBs when they are discovered.

The use authorization rule for natural gas systems, administered by the Office of Pollution Prevention and Toxics ("OPPT") within EPA's Office of Chemical Safety and Pollution Prevention ("OCSPP") could be boiled down to a few words, eliminating significant and completely unnecessary cost burdens and complexity, as we explain below. The disposal and remediation rules in Part 761 are generally more risk-based and functional, but they too could be improved to eliminate some provisions that impose severe and unnecessary costs. Because the use authorization and disposal rules are interrelated but administered by two different offices at EPA, their revision should be coordinated. In fact, pursuant to Executive Order 13781 (March 13, 2017) establishing a comprehensive plan for reorganizing the Executive Branch, it would make sense to reduce confusion and duplication by consolidating the two functions and moving any remaining use authorization issues into one PCB use, remediation and disposal group within the Office of Resource Conservation and Recovery (ORCR) under the Office of Land and Emergency Management (OLEM).

A. Revise and Simplify PCB Use Authorization

Having a simple yet effective PCB use authorization is important to affected natural gas companies as they continue to rid their systems of PCBs over time. The existing use authorization rules governing PCBs in natural gas systems, however, are replete with vague, confusing, cumbersome, burdensome and irrational provisions, particularly for local natural gas distribution utilities. The confusion stems in part from trying to create natural gas regulations on a foundation of electrical equipment regulations developed 40 years ago, when in fact, the

use of PCBs in electric and gas systems was completely different. The confusion in the 1998 natural gas regulations also stems from the fact that EPA developed the regulations based on the agency's partial understanding of the interstate natural gas transmission pipelines where PCBs were discovered by EPA, and a complete misunderstanding about how local distribution systems operate. For example, the existing rule was drafted based on an incorrect assumption that both transmission and distribution systems are comprised of straight, level pipelines that flow in only one direction for many miles. Another misunderstanding that has caused serious confusion and excessive costs relates to the "source" of legacy PCBs in systems. A local distribution company that did not introduce PCBs into its own system, but rather received PCBs from an upstream interstate pipeline, does not have a source of PCBs in its system, yet it can become subject to the unduly burdensome use authorization requirements to eliminate "sources" that do not exist under such circumstances. These and other problems related to the use authorization rule have been compounded as local distribution systems have modernized and grown since 1998.

We encourage EPA to repeal the current use authorization regulations in 761.30 and replace them with a simple statement that liquid and non-liquid PCBs and PCBs in porous surfaces are authorized for use at any concentration in electric utility, natural gas distribution utility, storage and pipeline systems and operations, provided the operator complies with applicable requirements for PCB remediation, storage and disposal under Sections 761.60, 761.60, 761.61, 761.65, and 761.120 as PCBs are removed and eliminated from pipeline systems over time. We also urge EPA (1) to eliminate any reference to "potential sources,"[4] (2) clearly eliminate any flawed concept that devices designed to remove liquids (and PCBs if present) from natural gas systems somehow reintroduce them, and (3) eliminate extensive, unnecessary procedures for "characterizing" natural gas systems to look for PCB deposits today -- long after they were first introduced more than 50 years ago. Resources should instead be focused on responding appropriately and reasonably when any remaining PCBs are found.

[4] *See* 40 C.F.R. § 761.30(i)(1)(iii)(A).

Requirements for such response and disposal should be based on standard best practices that are self-implementing and clearly described in the rule, to eliminate the need for any EPA involvement in day-to-day operations.

B. Revise Certain PCB Analysis, Storage and Disposal Regulations

1. Change PCB Rules to Facilitate Gas & Electric Utility Operations

AGA agrees with USWAG that EPA should: (1) allow disposal of PCB remediation wastes at "as-found" levels <50 ppm in non-TSCA landfills; (2) modify the PCB analytical rules at 40 C.F.R. § 761.272 to expressly authorize the use of the automated soxhlet extraction procedure (Method 3541) for the chemical extraction of PCBs from individual and composite samples; and (3) amend 40 C.F.R. § 76165 to allow satellite accumulation of PCBs.

2. Change Storage and Disposal Rules to Facilitate Natural Gas Utility Operations

a. Reduce Costs by Allowing Rational Method to Identify Areas Not Subject to PCB Concerns and Disposal Restrictions

EPA's PCB disposal rules under Section 761.60 describe how to characterize and manage natural gas distribution and transmission pipelines from PCB-impacted systems when no longer fit for service, including restrictions on how pipe can be abandoned in place or disposed of, depending on PCB levels.[5] Pipe removal and replacement are becoming more common in response to DOT pipeline safety regulations, so the cost of complying with the PCB regulations for natural gas systems continues to rise while PCB levels continue to decline.

Natural gas companies strive to rid their systems of liquids in general and PCBs in particular to eliminate these added costs. However, it is not clear under the existing rules how an operator can "delist" a system or portion thereof from the costly and onerous pre-requisites for abandoning pipe in place. Nor are the rules clear regarding how and where to send pipe for disposal or recycling once PCBs are no longer found in the system or a portion thereof above the regulatory threshold. It is wasteful and very costly to continue applying restrictions designed for systems with PCBs in liquids to dry pipe that has salvage value and no longer poses a risk. Testing each section of pipe as it is taken out of service in such systems is also costly and

[5] See 40 C.F.R. § 761.60(b)(5).

wasteful. We would welcome the opportunity to work with EPA to develop a rational method for "delisting" systems or portions of systems that actually results in some incremental environmental benefit, so that resources can be focused on projects that improve safe and reliable energy delivery, create good paying utility jobs, and facilitate economic development.

b. Allow PCB Bulk Product Waste Storage or PCB Bulk Remediation Waste for Storage Up to 180 Days -- in a Roll-Off or Similar Container -- at Either the Site of Generation or Other Company-Owned Site

Pipe wrap and cathodic protection are two effective methods that have been used over the years for protecting metal pipe from corrosion. Coal tar pipe wrap was often used on steel and cast iron pipe for gas utility systems in the first half of last century. Sometimes oil containing PCBs was applied to the wrap to improve its flexibility. Gas utilities have been removing and replacing cast iron pipe over recent years as they modernize their systems, and they sometimes encounter sections of coal tar pipe wrap that contain PCBs at concentrations of $\geq$ 50 ppm. In such cases, utilities need a cost-effective method for managing this waste.

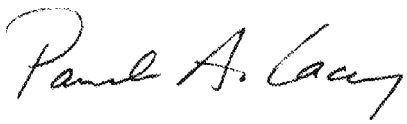
AGA agrees with USWAG that PCB-containing Coal Tar Wrap (CTW) material meets the definition of "PCB bulk product waste" under 40 C.F.R. § 761.3. The existing PCB storage regulations at 40 C.F.R. § 761.65(c)(9) allow temporary storage of PCB bulk product waste or PCB bulk remediation wastes at the site of generation for up to 180 days, but only in a "pile" that meets several restrictive performance standards. A better, simpler and more cost-effective option in many circumstances would be to use a roll-off or similar container. AGA agrees with USWAG that the rule should be amended to allow the use of a roll-off or similar container.

Further, since the site of generation could be in a city street or utility right-of-way, it is often not feasible or the best environmental option to store bulk PCB remediation wastes or bulk PCB product wastes there. It is often more practical and environmentally sound to bring such bulk wastes back to a utility service center or other company-owned central site. The existing regulations at 40 C.F.R. § 761.65(c)(1) allow operators to move PCB bulk product waste or PCB remediation waste from the site of generation back to a company-owned site for temporary storage before shipment off-site to a qualifying TSCA disposal facility – but such temporary storage at a company-owned central site (other than the site of generation) is limited to only 30

days. This short time period often does not allow adequate time for cost-effective storage prior to off-site shipment. For the reasons explained in USWAG's comments in this docket, extending this time period would not present an unreasonable risk of injury to health or the environment. EPA should amend its storage for disposal regulations at 40 C.F.R. § 761.65 to expressly authorize operators to move PCB remediation wastes and PCB bulk product wastes such as CTW or pipe covered with CTW from remote sites to a central company-owned location for storage up to 180 days.

AGA appreciates the opportunity to comment. If you have any questions, please contact me.

Respectfully Submitted,



Pamela Lacey
Chief Regulatory Counsel
American Gas Association
400 N. Capitol St., NW
Washington, DC 20001
202.824.7340
placey@aga.org