



IN THE PIPELINE

TEXAS PIPELINE ASSOCIATION NEWSLETTER

FALL 2019



FROM THE CHAIRMAN

Welcome to the Fall 2019 edition of *In the Pipeline*. We've got a lot of content in the following pages that I hope you'll find to be a useful and informative resource.

TPA continues to follow interim developments associated with landowner organizations' opposition to pipeline infrastructure projects. In June, the Travis County District Court favorably rejected Hayes County plaintiffs' constitutional challenges regarding the Railroad Commission of Texas' regulatory oversight of the exercise of eminent domain by private pipeline companies. Rejecting plaintiffs' allegation of the Commission's "abdication of its duty to oversee private pipeline route selection" under existing statute, the Court went on to note that "[t]he Legislature is, of course, able to specifically outline any condition on its grants, as it deems appropriate." If that's not a roadmap for a much broader landowner legislative effort in 2021, then I'm not sure what would be.

Recent activity in Hayes, Blanco and Erath Counties, to name a few, encompasses everything from the development of local pipeline ordinances to increased condemnation awards to heightened public rhetoric generally, all of which are being amplified by landowner groups through traditional and social media platforms. In light of all these ongoing developments, it is critical that TPA maintain a proactive dialogue, both internally and externally, in order to stay ahead of these issues. While we made that effort last interim session, we stopped short by allowing landowners to take the lead on actual bill language, which is a strategy I look forward to revisiting in coming months.

Separately, I hope you'll read Phil Gamble's article inside on the Railroad Commission's gas gathering rulemaking. I think it's fair to say that the initial proposal caught the entire industry off guard, especially on the heels of significant forward movement at PHMSA. This activity certainly underscores the need for TPA and member companies to remain intentionally active in engaging and educating our regulators.

And finally, after announcing a strategic review and planning effort at our summer board meeting, we moved quickly to assemble a working group of board volunteers that held an organizational call in early August. The group identified key areas of focus to include better defining TPA's membership objectives, reviewing our staffing and member resourcing needs and expectations and analyzing our communications, Tex-Pipe PAC and standing committee strategies. Following a productive work session in early September, we're now in the process of reaching alignment on certain action items that will be proposed to the full board in the near future, all with the objective of enhancing the TPA value equation to member companies.

Thanks for reading, and thanks to all for your leadership efforts within TPA.

Don Baldrige, DCP Midstream
Chairman, Texas Pipeline Association

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MESSAGE FROM THE PRESIDENT



Friends,

Welcome to the Fall edition of *In the Pipeline*. Although the Texas heat makes it feel closer to the dog days of summer rather than Fall, TPA has remained active and busy since the 2019 Legislative Session ended in following issues important to industry. In this issue, you will read about efforts relating to the Railroad Commission gas gathering rulemaking and a recap of eminent domain efforts from the Coalition for Critical Infrastructure.

On the issue of eminent domain, a discussion has occurred between Chairman Craddick's office and the Office of the Attorney General relating to revisiting the Landowner Bill of Rights. Abby Raines, chief clerk of the House Land & Resource Management Committee, shared with TPA that their office will be meeting in the future to consider changes regarding the legalistic tone of the

document and helpful information regarding the process. We will provide updates as developments occur.

Inside TPA, I am honored to announce the hiring of Mrs. Sheryl Jett to take over from Angie upon her retirement in January. Sheryl was a law office administrator for 12 years before leaving to raise her twins, but remained active as the office manager for her husband's business. Sheryl brings great administrative experience to TPA and we look forward to working with her as she joins the team this month.

As always, thank you for your leadership and participation in TPA. Please contact us when we may be of assistance and we look forward to seeing you at the TPA Board Meeting on Oct. 10 in Plano.

All my best,
Thure Cannon



SAN ANTONIO'S CLIMATE ACTION ADAPTATION PLAN (CAAP) IS NOW IN DRAFT TWO

By Christopher Ashcraft, South Texas Energy & Economic Roundtable (STEER)

In my previous article, I introduced you to the first draft of the San Antonio Climate Adaptation Action Plan (CAAP), myself, our organization STEER and the many positive impacts the oil and gas industry have had on our environment and economy. If you missed that first article, I encourage you to read it [here](#).

Following a groundswell of criticism from the San Antonio community and business leaders, the Mayor of San Antonio rightfully canceled the vote to adopt CAAP in March 2019. It was canceled due to its likely failure to pass and because the document did not represent a shared vision across the entire San Antonio community, but instead a one-sided voice of hand-selected constituents.

Draft two of the CAAP has recently been released to the public after receiving thousands of comments from members of our community, including our organization, to voice their concerns and support about how we can make this a shared plan. You can find it [here](#).

The City of San Antonio plans on holding a vote to adopt the plan on Oct. 17, but the CPS Energy Board of Trustees already adopted the plan on Aug. 26 without even seeing public comments for the second draft, with trustee Ed Kelley, former CEO of USAA, heavily criticizing the plan but voting for it because he felt its [passage by the San Antonio City Council](#) was inevitable.

STEER and our San Antonio Affordable Reliable Energy Alliance (SA AREA) members will be providing letters and detailed com-

ments to the city on what we feel still needs improvement. The San Antonio City Council is likely to adopt this inadequate and misguided plan in its current form unless you the reader voice your concerns. **That is why we need you to become familiar with the second draft of the CAAP and to create a dialogue with your locally elected city council leaders to make your voices heard. Public comments on the second draft were received through Sept. 6.** This was STEER's initial comment to the media in San Antonio on the second draft of CAAP:

"We applaud the City of San Antonio for recognizing the shortcomings of the first draft of CAAP and for allowing the entire community the time to provide much-needed feedback. There have been improvements in the second draft, but there is still work needed to make sure that this framework is well laid out with strong community support since it will be driving future policy decisions.

"This revised plan has no included costs and the original plan used '\$' symbols for crude cost estimates. I do not know of one family or business that can plan their finances with '\$' symbols. Our citizens deserve better, especially when they will cover the costs. We cannot plan how to do the best job to reduce greenhouse gas emissions (GHG) without cost estimates. The revised CAAP still includes ambiguous language and mitigation strategies that will threaten proven reliable and affordable energy, increase transportation costs and put San Antonio residents' health and economy at risk.

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“The oil and natural gas industry has been the leader in driving down energy costs, while at the same time being the primary driver in reducing GHG emissions. GHG reductions from natural gas in the U.S. have led to more GHG emission reductions than all other efforts combined and has made this nation the leader in reducing GHG emissions across the world, more than all other countries combined. We are looking forward to submitting our comments during the comment period to the City of San Antonio and hope that our fellow community members will do the same. That way, we can continue to improve this framework before the city votes on it.”

We welcome the opportunity to be part of the process to ensure that the city’s plan is based on facts, includes concrete cost estimates and funding mechanisms and is clear-eyed about the economic impact for San Antonio residents and employers. The most important voice to be heard though is you, the reader. Please sign-up at the following sites to remain informed and to take action!

www.steer.com

<https://www.texansfornaturalgas.com/>

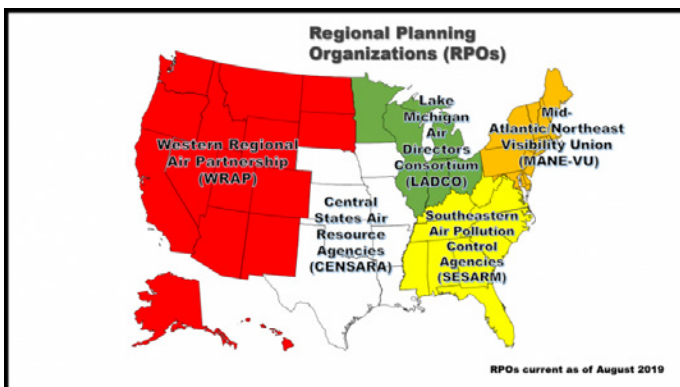
<https://saclimateready.org/>

EPA REGIONAL HAZE RULE NOW IN ITS SECOND PHASE

By Melanie Roberts, TARGA

EPA passed the Regional Haze Rule (RHR) in 1999 with the goal to reduce or eliminate man-made visibility impairment to all federally mandated Class 1 areas (i.e. national parks and wilderness areas) by 2064. To achieve this goal, EPA requires states to achieve reasonable progress toward continuous improvements on a 10-year cycle, called planning periods. There are six planning periods overall under the rule; we are currently in the second planning period, which runs from 2018-28. Facilities controlled in one period can be required to implement additional controls in a subsequent planning period, if needed, to achieve the visibility goals.

The U.S. is divided into six Regional Planning Organizations (RPOs). The RPOs manage complicated air dispersion modeling and allow states to work together to find solutions to improve visibility. Texas is part of the Central States Air Resource Agencies (CENSARA) RPO.



Each state, usually with guidance from their respective RPO, will develop a screening analysis by which it can identify the sources that could potentially impact a Class I area. Some states have adopted an equation based on the emissions magnitude of nitrogen oxides (NOx), sulfur dioxide (SO₂), and particulate matter (PM) released from the source per year divided by the distance to the nearest Class I area. If the quotient of that formula, expressed as Q/d, is above a threshold value, further reviews of that source may be required.

The threshold value of Q/d varies by state and the pollutants evaluated in Q differ as well. For example, New Mexico has set its Q/d threshold at 5.7 and only takes into account NO_x and SO₂ emissions. Sources that are above the threshold value must submit a four-factor analysis to determine if controls are appropriate. The four factors are:

1. Cost of compliance;
2. Time necessary for compliance;
3. Energy and non-air quality environmental impacts; and
4. Remaining useful life of the source.

The RPOs will then evaluate the potential control options and model each Class 1 area to determine if that particular control will result in visibility benefits to the Class 1 area. States are then required to implement regulations to control these identified reductions and submit a revision to their State Implementation Plan (SIP) to EPA for approval. The SIP revision for the second planning period must be submitted to EPA by July 31, 2021.

It is important to note that state regulators and RPOs are currently working on air dispersion modeling based on 2014-16 emission inventory data to screen current facilities for controls. However, more recent data and expected construction of new facilities will be utilized when performing updated modeling to demonstrate whether the expected controls for a particular source will achieve the required improvements. If a facility is not currently identified, it can still be required to install controls as part of the second planning period. Additionally, early replacement of older engines and turbines is considered a potential control.

While these regulations will not require controls in 2020, there is a high likelihood for capital cost expenditures at oil and gas facilities in the coming years as this regulation continues to require emission reductions of NO_x and SO₂.

RRC PIPELINE SAFETY REGULATIONS AND RULE 70 RULEMAKING

By Phil Gamble, The Law Office of Phil Gamble

The RRC announced on July 1 an extensive rulemaking concerning Chapter 8 (Pipeline Safety Regulations) and Rule 70 (Pipeline Permit Fees). The RRC published the Draft Rules for Informal Comment and hosted a workshop on July 24 in Austin, Texas. In addition, the RRC solicited written informal comments. The Texas Pipeline Association (TPA) participated in the workshop and provided written informal comments prior to the workshop. As a result of the TPA Written Comments, several changes were made to the proposed Pipeline Safety Regulations and a new draft dated July 26, 2019, was published on the RRC website. The July 26 draft of the Chapter 8 proposed revisions included regulation of all natural gas and hazardous liquids gathering pipelines located in Class 1 locations. Specifically, the draft required operators to develop corrosion control for metallic pipelines within two years of the effective date of the rule, establish a damage prevention program within one year, develop a public education program within one year, install line markers within one year and conduct leak surveys within one year.

In addition to the new regulations for pipelines in Class 1 locations, the proposed Chapter 8 revisions include:

- Implementation of HB 2982, which was adopted by the Texas Legislature in 2013, and allows the RRC to assess risk to public safety and adopt rules for NGL and gas gathering lines in Class 1 locations. The RRC may investigate, request operational records and require corrective action if a risk to public safety is determined;
- Eliminates the requirement to obtain RRC Gas Services Director approval for the use of direct assessment in a pipeline integrity plan;
- New construction reports will be required to be filed 60 days in advance instead of 30 days in advance. In addition, reports will expire in eight months. If no construction has commenced within eight months a new construction report must be filed;
- Written requests for waivers of pipeline safety rules will no longer be granted after the fact; Waivers must be filed in advance in order for the RRC to approve. The approval process generally takes three to six weeks;
- Incident and accident reports must be telephonically reported to the RRC at the earliest practicable time, but no later than one hour, as opposed to the current rule, which requires two-hour reporting; and
- Additional penalty guidelines include specific penalties for violation of each subpart of CFR Chapter 192, 193 and 195 and each separate section of the Texas Administrative Code.

The deadline for written Informal Comments was Aug. 12, 2019. Informal Written Comments were filed by TPA, as well as other operators and associations. In addition, numerous meetings were held with RRC staff concerning the proposed rulemaking and the proposed significant expansion of the regulation of gathering pipelines in Class 1 locations. Ultimately, the RRC determined that it needed additional data and information to more thoroughly assess the risk, if any, that rural gathering systems in Class 1 locations present to public safety. After careful consideration, the RRC staff made important revisions to the proposed rules concerning gas gathering in Class 1 locations. The RRC will assert jurisdiction over gathering lines in Class 1 locations pursuant to HB 2982. Specifically, the revised rules require operators of Class 1 rural gathering lines to operate pipelines in a reasonably prudent manner to promote safe operation of the pipeline. Operators of Class 1 gathering lines are required to report incidents and accidents to the RRC pursuant to certain reporting requirements. Operators are required to conduct an investigation after an incident or accident and cooperate with the RRC investigators. The RRC may require the operator to submit a corrective plan of action to remediate an accident, incident, threat to the public or complaint. These proposed reporting, investigation and corrective action requirements will allow the RRC the opportunity to gather accurate data and analyze trends in incident or accident occurrences. The data collected will allow the RRC to assess the risk to public safety, if any, that rural gathering systems in Class 1 locations present. The final revised draft of the proposed Chapter 8 revisions was presented to the Commissioners for consideration at the Oct. 1, 2019 Open Meeting. The Commissioners unanimously voted to publish the proposed rulemaking in the Oct. 18 *Texas Register* with a 30-day written comment period, which expires at noon on Nov. 18. The RRC staff will prepare an analysis of the comments filed and present it to the Commissioners, as well as any recommended changes, at the Dec. 17 Commissioners Open Meeting. At that time, the Commissioners will vote on adoption of a final rule. A copy of the Chapter 8 proposed rule may be found [here](#).

As far as the rulemaking on Rule 70 is concerned, the proposal consolidates payment for an operator's T-4 and revises the renewal date. The renewal date will be determined by the first letter of the operator's name. Beginning Sept. 1, 2020, operators will file their annual renewals as follows:

- Companies with names beginning with the letters A through C shall file in February

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- Companies with names beginning with the letters D through E shall file in March
- Companies with names beginning with the letters F through L shall file in April
- Companies with names beginning with the letters M through P shall file in May
- Companies with names beginning with the letters Q through T shall file in June
- Companies with names beginning with the letters U through Z shall file in July

The RRC posted on its website a slide presentation from the July 24 workshop that is very informative and addresses the Rule 70 proposed revisions and calculation of the pipeline safety fee. A link to the workshop presentation is located [here](#). A copy of the Rule 70 proposed rule may be found [here](#).

The Commissioners will consider the revisions to Rule 70 at the same time as they vote on the revisions to Chapter 8 on Dec. 17.

EMINENT DOMAIN MYTHBUSTER

Carol Sims, Coalition for Critical Infrastructure

In response to several misleading and inaccurate media reports and communications regarding the failure of eminent domain legislation this past session, the Coalition for Critical Infrastructure (CCI), of which TPA is a member, has compiled a list of nine important points that set the record straight. You may have already seen these, but it's important to share this information with others who are less clear about what happened with SB 421/HB 991.

1. First and foremost, CCI wanted to pass meaningful eminent domain legislation during the 86th Legislative Session and the failure of SB 421 was a great disappointment to our coalition.
2. We negotiated in good faith throughout the entire process. In fact, throughout the interim following the 2017 legislative session, we offered to negotiate with landowner groups with the intention of reaching an agreement prior to the 2019 session convening. This offer was declined. We were not privy to the filed versions of SB 421/HB 991 until they became public on Jan. 23, 2019.
3. We never reached agreement as to all aspects of the bill. Any claim to the contrary is simply untrue.
4. The version that passed the Senate was NOT an "agreed to" bill. Although CCI agreed to changes that enhanced transparency and accountability, we never agreed to the provisions that exposed entities, taxpayers and consumers to increased litigation costs and project delays.
5. Once SB 421 reached the House, we worked with Chairman Craddick (R-Midland) and other members to draft compromise language on the parts of the bill that were not resolved in the Senate. We did not reject negotiated language; but never reached an agreement

on several key components.

6. Additionally, we were assured that we would have an opportunity to vet final language with those directly responsible for compliance. That opportunity never came.
7. The only "agreement" was to move forward with the House version to get the bill into a conference committee.
8. CCI was not privy to any counter proposal or conference committee report by Sen. Kolkhorst (R-Brenham) prior to the conference committee report deadline. Thus, it would have been impossible for us to reject such a proposal, as claimed by some landowner groups.
9. For the 18 months prior to the 86th Legislative Session, beginning with the House Land & Resources Management Committee interim hearings, until Sunday, May 26, 2019, the last day to adopt conference committee reports, the coalition worked in good faith to pass meaningful eminent domain reform. CCI again stands ready and willing to work on legislation during the upcoming interim. Circulating false, misleading and inflammatory statements aimed at members of the Legislature and the entities that provide much-needed critical infrastructure does not provide a basis for meaningful reform.

LANDOWNER BILL OF RIGHTS UNDER REVIEW

The staff of Rep. Tom Craddick, Chairman, House Committee on Land & Resource Management, is working with the Attorney General's office on an initiative to update the Landowner Bill of Rights. Please stay tuned for more information in upcoming issues of *In the Pipeline*.

INDUSTRY NEWS

JANECKA APPOINTED AS NEW TCEQ COMMISSIONER



Gov. Greg Abbott announced on Sept. 16 he had chosen Bobby Janecka to fill the third and final commissioner seat for the Texas Commission on Environmental Quality. Learn more [here](#) and witness his swearing-in ceremony [here](#).

WE WANT YOUR TAX INFORMATION

Not your personal information, of course, but the amount of taxes that your company has contributed to local and state coffers in 2018. We will compile this information and use it to show how valuable the pipeline industry is to the state of Texas. Your information is confidential and will only be used in the aggregate. Please email the information to [Thure Cannon](#) directly.

NEWS BRIEFS

TPA IN THE NEWS



TPA was quoted in an ICIS News report on Aug. 29 on EPA's rollback of methane emission rules for oil and gas industry: Energy groups that supported the methane rollback said the oil and

gas industry already has adopted voluntary oversight of emissions. Thure Cannon, president of the Texas Pipeline Association, said the group has long supported the rollback of methane regulations. "Emission reductions," Cannon said, "have been achieved by, among other things, voluntary efforts to integrate emission reduction practices into company operating procedures, participation in voluntary industry programmes focused on reducing emissions and installation of more efficient, lower-emitting new equipment."

FAREWELL FROM CHRISTIAN GOFF



As many of you may already know, I have recently made the difficult decision to scale back on my workload so that I can spend more time with my son Luca, who only has four more short years at home before he heads off to college. This means that my partner, Jeannine Wheeler, a trusted and

well-respected communications professional with many years of experience, will become the TPA lead. Jeannine will be a steady hand at the helm and I trust those of you who have had the chance to work with her will agree.

As my long tenure with TPA comes to a close, I would like all of you to know that I will miss my time with TPA and will cherish all of the relationships I have made over the years. TPA and its members are truly a fine group of people doing incredible work for the benefit of Texas and the nation.

THIS ISSUE'S CONTRIBUTORS

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Melanie Roberts, [TARGA](#)

Celina Romero, [Duggins Wren Mann & Romero](#)

Carol Sims, [Coalition for Critical Infrastructure](#)

Allison Newsum, [Graphic Designer](#)

NEW MEMBERS

MIDCOAST ENERGY [Midcoast Energy](#)

EAGLECLAW MIDSTREAM [EagleClaw Midstream](#)

TPA 2019/2020 BOARD MEETING DATES AND LOCATIONS

Thursday, Oct. 10, 2019 **Plano**

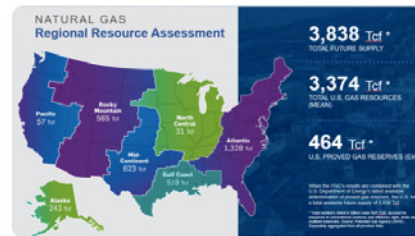
Friday, Jan. 10, 2020 **Houston**

TWEET THIS!

HELP SPREAD THE WORD. IF YOU'RE ON TWITTER, PLEASE TAKE A FEW MINUTES TO SHARE THESE PRO-INDUSTRY TWEETS!



ICYMI: The amount of recoverable natural gas in the US has reached its highest-ever recorded level. Does that mean more emissions? The Environmental Defense Fund says NO. [@aga_naturalgas](#) [@EnergyInDepth](#) [#environment](#) [#pipelines](#) [#C02](#) [bit.ly/2IMn61Q](#)



The oil and gas industry in Texas supports roughly 17 percent of jobs in the state, either directly or indirectly, according to a new economic analysis by the Waco-based [@PerrymanGroup](#) [@TheHayride](#) [#oilandgas](#) [#pipelines](#) [#energy](#) [#economy](#) [#Texas](#)

