

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Guidance for Horizontal Directional Drill)
Monitoring, Inadvertent Return)
Response, and Contingency Plans)**

Docket No. AD19-6-000

**COMMENTS OF THE
AMERICAN GAS ASSOCIATION**

Pursuant to the “Notice of Availability of Draft Guidance for Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans” issued by the Federal Energy Regulatory Commission (“Commission”) on October 26, 2018, in Docket No. AD19-6-000,¹ the American Gas Association (“AGA”) respectfully submits these comments. As discussed in the Notice, the Commission’s Office of Energy Projects (“OEP”) has prepared draft “Guidance for Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans” (“Draft HDD Guidance”).² Commission staff sought comments on the Draft HDD Guidance from federal and state agencies, environmental consultants, inspectors, the natural gas industry, construction contractors, and other interested parties with special expertise in regards to preparation of Horizontal Directional Drill (“HDD”) monitoring and contingency plans associated with interstate natural gas projects. AGA requests that the Commission accept these comments regarding the Draft HDD Guidance and, as discussed herein, consider the proposed clarifications when it issues the final updated version of the HDD Guidance.

¹ Notice of Availability of Draft Guidance for Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans, Docket No. AD19-6-000, October 26, 2018 (“Notice”).

² Draft Guidance for Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans, dated October 2018, available at <https://www.ferc.gov/industries/gas/enviro/guidelines/hdd/guidance.pdf?csrt=13726392489494823099>.

I. INTRODUCTION

OEP prepared the Draft HDD Guidance as a guidance document to assist pipeline industry professionals with the development of Horizontal Directional Drill Monitoring, Inadvertent Return Response, and Contingency Plans (“HDD Plans”).³ The purpose of the Draft HDD Guidance, according to OEP, is to describe the technical components of an HDD Plan including drilling fluid composition and management, monitoring procedures, and response procedures for an inadvertent return of drilling fluid to the ground surface.⁴ AGA generally supports OEP’s efforts in preparing the Draft HDD Guidance. Overall OEP’s draft guidance is a detailed and thorough explanation of what the Commission expects project proponents to provide as part of the HDD Plan review process. AGA provides these limited comments regarding the Draft HDD Guidance as an effort to further clarify and refine a few items discussed in the issuance.

II. COMMUNICATIONS

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III. IDENTITY AND INTERESTS

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 74 million

³ Draft HDD Guidance at p. 1.

⁴ *Id.* at pp. 1-2.

residential, commercial and industrial natural gas customers in the U.S., of which 95 percent — more than 71 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.⁵

AGA member natural gas utility companies own and operate local natural gas distribution pipeline systems that typically receive natural gas supplies that have been transported on the interstate pipeline system. Natural gas utility companies deliver natural gas under locally-regulated rates, terms and conditions, directly to residential, commercial, and industrial customers, including electric generators. AGA members take service from virtually every interstate natural gas pipeline regulated by the Commission under the Natural Gas Act (“NGA”). As customers of jurisdictional pipelines and providers of natural gas distribution service to all retail segments, AGA members are directly affected by the Commission’s rules and policies addressing or affecting pipeline construction and certification. AGA’s goals include ensuring that the interstate natural gas transportation network provides adequate, secure and reliable service. AGA member companies, therefore, have a direct and substantial interest in the issues raised in this proceeding.

IV. COMMENTS

A. Applicability and Effect of the Final HDD Guidance

Section 1.0 of the Draft HDD Guidance provides that guidance issued by OEP does not substitute for, amend, or supersede the Commission’s regulations under the NGA and the Council on Environmental Quality’s regulations under the National Environmental Policy Act of 1969

⁵ For more information, please visit www.aga.org.

(“NEPA”).⁶ The Draft HDD Guidance further states that the guidance imposes no new legal obligations and grants no additional rights.⁷

AGA agrees with the assessment that final guidance will not amend or change any statutory or regulatory requirements under the NGA or NEPA, and not impose any additional legal obligations. OEP should also further clarify, in the final issuance, that its HDD Guidance will not revise or modify any other current statutory or regulatory provisions, or any Commission order or other guidance applicable to the construction of interstate facilities. The reference to the NGA and NEPA in Draft HDD Guidance, in a broad sense, addresses the issue of whether the guidance revises existing regulations and requirements; however, adding more clarity to the final guidance regarding its effect is recommended. Furthermore, the final issuance by OEP should specify that there is nothing barring a project proponent from proposing alternative measures in specific cases and that final guidance will not restrict any proposals regarding HDD. Additionally, the final guidance should clearly state that it will only be effective prospectively and that there will be no retroactive application of any new guidance. It would not be appropriate for the Commission to apply the final guidance retroactively to projects. As noted in the Draft HDD Guidance, HDD Plans should be prepared in consideration of project-specific issues, impacts, and public and agency comments;⁸ therefore, the final issuance should make clear that proponents of a project can and should include elements in an HDD Plan that address the specifics of a project, even if the proposed HDD Plan does not follow every aspect of OEP’s guidance. While these matters are generally referenced in the Draft HDD Guidance, AGA recommends that the final guidance contain more clarity to ensure that project proponents understand the application and effect of the final guidance.

⁶ Draft HDD Guidance at p. 1.

⁷ *Id.*

⁸ *Id.*

AGA further requests that the final guidance make clear that HDD Plans, or portions thereof, can receive special treatment as Critical Energy Infrastructure Information (“CEII”) and/or privileged information,⁹ as applicable. Some of the information suggested for inclusion in HDD Plans may warrant special treatment pursuant to the Commission’s regulations; therefore, OEP should make clear that any final guidance will not hinder a proponent’s ability to seek CEII and/or privileged treatment for information that satisfies the requirements for special treatment in the Commission’s regulations.

B. Preparing HDD Plans for NGA Applications

In Section 2.0 of the Draft HDD Guidance, OEP explains that certain information, while not specifically required by regulation, is nonetheless often considered during the Commission’s environmental review and should be provided in the HDD Plans.¹⁰ The Draft HDD Guidance further contains a list of specific information sought, such as, crossing-specific geotechnical information and crossing profiles showing the feasibility of the crossing, among other things.¹¹ AGA suggests adding crossing alignments to the list of information that should be included in the plans, as well. This is because the alignment of an HDD will illustrate important information relative to natural and manmade surface features surrounding the HDD alignment which can affect feasibility, *i.e.*, slopes and structures. Furthermore, OEP lists, in Section 2.0, HDD monitoring procedures and document retention as information to be included in a HDD Plan.¹² AGA recommends that this description be clarified to add more specificity. For example, the description could be clarified to explain that with regard to HDD monitoring procedures and document retention during construction the following information could be provided, if applicable: alignment and profile location, downhole annular

⁹ See 18 C.F.R. §§ 388.112 and 388.113.

¹⁰ Draft HDD Guidance at p. 2.

¹¹ *Id.*

¹² *Id.*

drilling fluid pressure, and drilling fluid return flow relative to downhole pumping rate. Further clarification and specificity would, for example, provide project proponents with more detail as to what OEP means when it refers to HDD monitoring procedures.

C. HDD Plan Contents

Section 3.1 of the Draft HDD Guidance provides example tables that exemplify how to summarize the purpose, objectives, and applicability of the HDD Plan.¹³ While the tables are one method of summarizing relevant information, AGA suggests that project proponents also be permitted to sufficiently summarize basic information regarding the HDD Plan by other means. For example, if appropriate, an applicant could, provide a summary, in lieu of the tables provided, that includes cross-references to where more detailed information can be located in the HDD Plan. This would reduce the potential for excessive duplication in the filed materials, since the information will already appear somewhere in the HDD Plan and it may not be necessary to summarize the information multiple times.

Additionally, in the last paragraph of Section 3.1 of the Draft HDD Guidance, OEP recommends identifying or tabulating unique conditions or features in proximity to the alignment(s) that may increase the risk of drill failure or potential impacts and provides a list of examples for consideration.¹⁴ In addition to the items listed as examples, *i.e.*, existing contamination, artesian groundwater, *etc.*, AGA recommends that the Commission consider adding water wells to the list. This is because such wells may increase the risk of drill failure or other potential impacts and identifying such wells would aid in formulating measures that would be implemented to minimize any risks.

¹³ Draft HDD Guidance at pp. 3-4.

¹⁴ *Id.* at p. 5.

Furthermore, AGA recommends clarifying one of the descriptions in Table 3.1-1.¹⁵ Specifically, in the subsurface material column OEP suggests a “description of overburden or bedrock” be provided.¹⁶ AGA recommends that the instructions for the table be revised to provide for a “description of overburden and/or bedrock.” To the extent that the table format is utilized, this addition is recommended due to the fact that it is possible that HDDs have both overburden and bedrock conditions. Limiting the description in the table as proposed may give the impression that the Commission is not seeking certain relevant information.

V. CONCLUSION

For the reasons stated above, the American Gas Association respectfully requests that the Commission consider these comments in this proceeding.

Respectfully submitted,

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¹⁵ *Id.* at p. 4.

¹⁶ *Id.*