

**BEFORE THE
UNITED STATES DEPARTMENT OF COMMERCE
OFFICE OF POLICY AND STRATEGIC PLANNING
WASHINGTON, D.C.**

Construction of Pipelines Using Domestic
Steel and Iron: Request for Comments

} Docket No. 170309252-7252-01
}

**SUPPLEMENTAL COMMENTS OF
AMERICAN GAS ASSOCIATION
AMERICAN PETROLEUM INSTITUTE
ASSOCIATION OF OIL PIPE LINES
GPA MIDSTREAM ASSOCIATION
INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA**

May 16, 2017

The American Gas Association (AGA), the Association of Oil Pipe Lines (AOPL), the American Petroleum Institute (API), the Interstate Natural Gas Association of America (INGAA) and GPA Midstream Association (GPA) jointly submit the attached ICF technical report, “*Feasibility and Impacts of Domestic Content Requirements for U.S. Oil and Gas Pipelines*” (“ICF report”), in response to the Department of Commerce (“Commerce”) Notice and Request for Comments, “Construction of Pipelines Using Domestic Steel and Iron” (“Notice”).¹ The trade associations (“Associations”) filed detailed comments in response to this Notice on April 7. The Associations represent the vast majority of pipeline operators engaged in transporting natural gas, natural gas liquids, crude oil, refined petroleum products and carbon dioxide.

Growth in domestic natural gas and oil production fuels America’s economy, and privately funded energy pipelines are the critical link that brings these domestic energy resources to market. In addition to the hundreds of thousands of jobs supported by the energy production and pipeline sector, domestic energy abundance has driven a resurgence of our manufacturing sector and the broader U.S. economy. As part of the Trump administration’s energy policy and infrastructure plans, new and existing pipelines will play a critical role in connecting growing production and consumer demand.

The Associations support President Trump’s objective to grow domestic jobs and boost the U.S. economy by reinvigorating globally-competitive American manufacturing. At the same time, the Associations continue to urge the Administration to ensure that government action to increase domestic steel and pipe production does not have the unintended result of reducing or significantly delaying new pipeline projects and limiting U.S. pipeline job growth. The attached ICF report identifies factors unique to pipeline-grade steel, line pipe and equipment manufacturing that must be addressed in order to expand competitive domestic pipeline production and manufacturing. The ICF report finds:

1. For certain materials and equipment used to construct, operate, and maintain energy pipelines, current domestic production capacity is limited or unavailable. Therefore, an immediate implementation of domestic content requirements could stall pipeline projects.
2. Prohibiting the import of line pipe, the plates and coils from which line pipe is made, and the slabs from which plates and coils are rolled will substantially reduce supply available to the market and increase market concentration in the domestic steel industry. Large increases in market concentration increase the likelihood of non-competitive pricing behavior and higher prices.
3. Removal of the international supply of steel, pipe, and equipment from the U.S. market, as well as the increase in market power of domestic manufacturers, may substantially increase the cost of pipeline projects.
4. ICF expects long-term line pipe, fitting, and valve prices to rise 25% if imports are prohibited. For a 280-mile 36-inch diameter oil or gas pipeline, ICF estimates that this price increase would result in a \$76 million cost increase. Furthermore, the *total cost* of this pipeline would rise by 6.3 to 13.6 percent in the “initial transition period,” when any new requirements are being implemented and domestic manufacturers are expanding capabilities. The total costs of major pipeline projects are often in the billions of dollars, and a cost increase of this magnitude could result in project delays or cancellations.

¹ Construction of Pipelines Using Domestic Steel and Iron, 82 Fed. Reg. 13,973 (March 16, 2017).

The Associations respectfully provide the ICF report, as a supplement to the April 7 comments, to assist Commerce in building a record that will demonstrate: 1) the anticipated demand for line pipe and steel/iron equipment used in pipeline projects; 2) current limitations on the ability to competitively source these materials and equipment with purely domestic content; and 3) the potential effect of domestic sourcing requirements on pipelines at various stages between project inception and construction. The Associations believe the ICF report provides additional data and analysis that supports the Associations' April 7 comments and demonstrates the following important considerations for Commerce in developing the plan directed by the Presidential Memorandum on Construction of American Pipelines.²

For certain materials and equipment used to construct, operate, and maintain energy pipelines, current domestic production capacity is limited or unavailable. Specifically, ICF reports that grade X70 steel, a commonly used line pipe material, is not currently produced in any quantities above 0.625-inch thickness in a manner that meets the Presidential Memorandum's definition of "produced in the United States." Similarly, domestic equipment manufacturers are currently unable to meet the Memorandum's definition of "produced in the United States" for many pieces of equipment. ICF estimates that it may take several years to develop domestic capabilities for manufacturing certain products. Therefore, an immediate implementation of stringent domestic content requirements could stall a significant number of oil and gas pipeline projects until domestic supplies are available.

Prohibiting the import of line pipe, the plates and coils from which line pipe is made, and the slabs from which plates and coils are rolled will substantially reduce supply volumes available to the market and increase concentration in the domestic steel market. Large increases in market concentration increase the likelihood of non-competitive pricing behavior and higher prices. Industrial concentration is commonly measured using the Herfindahl-Hirschman Index ("HHI"). The policy adopted by the federal government in many proceedings, such as in the approval process by the Federal Trade Commission for business mergers between large companies, is to scrutinize carefully actions that lead to large increases in market concentration. As just one example, the ICF report indicates that a domestic sourcing requirement could increase the HHI for API 5L steel plate from 1,333 to 4,629. Markets in which the HHI exceeds 2,500 points are considered highly concentrated, and the Federal Trade Commission and Department of Justice generally use a 200-point increase as the threshold for evaluating whether a merger would result in unacceptable increases in market concentration; ICF estimates that the increase in concentration for API 5L plate could be more than ten times this threshold.

Removal of the international supply of steel, pipe, and equipment from the U.S. market, as well as the increase in market power of domestic manufacturers, may substantially increase the cost of pipeline projects. The ICF report determines that a domestic sourcing requirement could put pipeline projects at risk. ICF expects long-term line pipe, fitting, and valve prices to rise 25% if imports are prohibited. For a single 280-mile 36-inch diameter oil or gas pipeline, ICF estimates that this price increase would result in a \$76 million cost increase. Furthermore, ICF expects that line pipe prices would increase even more significantly, 50 to 100%, during the

² Presidential Memorandum Regarding Construction of American Pipelines, <https://www.whitehouse.gov/the-press-office/2017/01/24/presidential-memorandum-regarding-construction-american-pipelines> .

“initial transition period,” when any new requirements are being implemented and domestic manufacturers are expanding capabilities. ICF expects that this initial transition period would last several years (2 to 10 years). As a result, ICF estimates that the *total cost* of a 280-mile 36-inch diameter pipeline project would rise by 6.3 to 13.6% during the initial transition period, which translates to hundreds of millions of dollars in cost increases for this single project. The total costs of major pipeline projects are often in the billions of dollars, and a cost increase of this magnitude could result in the delay or cancellation of pipeline projects, which could impact service and raise costs for consumers. ICF estimates that 75% of current pipeline construction expenditures end up in the pockets of American workers and business owners. Pipeline project delay or cancellation could therefore result in a significant loss of American jobs.

The Associations also restate a threshold consideration raised in our April 7 comments, that Commerce may face legal constraints on the implementation of any domestic content requirement. While the ICF report assumes that Commerce could implement a requirement, neither the Presidential Memorandum nor the Federal Register Notice identifies any legal authority that would support such a requirement. Even if there were sufficient legal authority, a requirement could expose the United States to proceedings under the World Trade Organization Agreements, which, if decided against the United States, would expose the domestic steel and potentially other U.S. industries to countervailing remedies. This result would have serious adverse economic and domestic employment consequences. A complete analysis of these impacts is critical, but such an analysis is outside of the scope of the ICF report. Nevertheless, the ICF report does note that while the U.S. imports \$2.2 billion of steel related to line pipe from 29 countries, it exports \$11.1 billion worth of steel and steel products to those same countries.

If these hurdles are not overcome, government action to increase domestic steel and pipe production could have the unintended result of reducing or significantly delaying new pipeline projects and limiting U.S. pipeline job growth. This result would run counter to the Trump administration’s goal of expanding U.S. energy production and infrastructure to support the economy, job growth, and national security. The plan being developed by Commerce should recognize that global sourcing of steel is currently essential for the continued growth of America’s energy pipeline infrastructure, as outlined in the ICF report, and for the continued growth of the U.S. economy overall.

It is important to understand that pipeline companies, like other manufacturers, value shorter supply chains over longer ones. If it were possible to source all materials and equipment within the borders of the U.S. at a competitive cost, the market would favor domestic content over imported content. Policy interventions such as domestic sourcing requirements, which are a *demand-side* approach, do not currently exist for any infrastructure projects funded with private capital. Energy pipeline projects are privately funded.

A better policy approach is to focus on any U.S. regulatory or tax policies – or foreign trade policies and practices – that currently present barriers to U.S. companies developing steel, pipe, and equipment production capacity and competing for pipeline manufacturing projects; this would be a *supply-side* approach. As discussed in the ICF report, the International Trade Administration already has the authority to issue anti-dumping duty orders and countervailing duty orders to specifically address any such barriers, and has done so on numerous recent

occasions. As any of those barriers are identified and specifically addressed, U.S. steel, pipe, and equipment production would be in a better position to supply the demands of the pipeline sector.

While the Presidential Memorandum raises several challenges, the companies represented by the five trade associations commit to engaging with the appropriate executive branch officials, project regulators, and other vital partners, particularly steel manufacturers, to forge solutions that will promote U.S. job growth and affordable energy in America.

Sincerely,



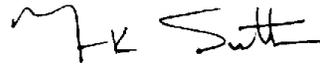
Dave McCurdy
President and CEO
American Gas Association



Robin Rorick
Midstream Group Director
American Petroleum Institute



Andrew J. Black
President and CEO
Association of Oil Pipe Lines



Mark Sutton
President and CEO
GPA Midstream Association



Donald F. Santa, Jr.
President and CEO
Interstate Natural Gas Association of America

