

January 31, 2017 – VOLUME 14, ISSUE 1

New Administration and New Congress Mean New Risks and Opportunities

The inauguration of Donald Trump has shaken up Washington, D.C. in a big way. The capital has seen many transfers of power from one administration to another, but rarely such a dramatic shift in tone and style. While the balance of power hasn't shifted on Capitol Hill, Trump's tenor and priorities have added new volatility to the legislative process.

As ACPPA looks at the new policy landscape we see opportunities for the pressure pipe industry, but also some significant risks.

On the positive side, new infrastructure investment is high on the agenda for both political parties and water infrastructure is an important part of that conversation. There's also an opportunity for real regulatory reform that could improve the rulemaking process and reduce costs. Legislation to improve career technical education programs and address America's skilled worker shortage is also likely to be a priority. And Congress may pass once-in-a-generation tax reform bill that makes the code simpler and reduces rates for all businesses. A tax and budget deal could also be a legislative vehicle to create new infrastructure and financing tools.

But there's also plenty of risk. When it comes to tax reform, the devil will be in the details and there are sure to be winners and losers. On the infrastructure front, as legislation moves forward, there will almost certainly be efforts to insert product preferences (as there have been at the state level). And new barriers to trade could affect input costs for manufacturers.

In the new environment in Washington, D.C. your engagement with all parts of government matters more than ever and your voice means more than ever. Your representatives and senators have to hear from you, not just ACPPA, about how all the issues mentioned above would affect your company and employees. Just as importantly, we must collectively educate the new crop of executive branch officials about our industry and our members products.

ACPPA is the concrete pressure pipe industry's voice on the Hill and vehicle for member engagement. In the months ahead, we'll call on you to make your voice heard by communicating with the Hill. We hope you'll answer that call. And of course, ACPPA is standing by to help set up lawmaker visits to your facilities to build your relationships. 

White House Outlines Federal Regulatory Policies and Hiring Freeze

In a pair of memos released on Jan. 23 and an executive order (EO) issued Jan 30., the White House outlined instructions to federal agencies for freezing both regulatory activity and federal hiring and for reducing the number of regulations. As part of a flurry of activity during President Trump's first week in office, the documents provide insight into the administration's policy plans but leave questions as to implementation details.



Image Source: <https://www.whitehouse.gov>

Regulatory Freeze Pending Review

The memo on freezing regulatory activity, from White House Chief of Staff Reince Priebus, describes six steps by which executive agencies shall cease regulatory activities. In general, no new regulation may be submitted to the Federal Register until it has been reviewed by one of President Trump's appointees or designees. Anything sent to the Federal Register but not yet published should be immediately withdrawn and regulations published but not completed shall be delayed pending review.

The memo grants the director or acting director of the Office of Management and Budget (OMB) authority to provide exceptions for "emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters, or otherwise." Just what constitutes such conditions is not defined, but agencies may submit requests for consideration to OMB.

In the context of the memo, "regulation" is broadly defined to include any regulatory action or guidance document as indicated under previous executive order. After review, should agency heads determine that any action raises "substantial questions of law or policy" they must submit it to the OMB director for review.

The entire memo can be accessed on the White House website at: www.whitehouse.gov/the-press-office/2017/01/20/memorandum-heads-executive-departments-and-agencies.

Reducing Regulations and Controlling Regulatory Costs

The EO issued Jan. 30 aims to manage costs associated with the governmental imposition of private expenditures to comply with Federal regulations. It requires that in 2017, "whenever an executive department or agency publicly proposes for comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed" and that total incremental cost of all new regulations and repealed regulations finalized this year shall be no greater than zero (unless required by law or allowed by OMB director). Any new incremental costs must be offset by eliminating costs associated with existing regulations.

For future years, the head of each agency is directed to identify, for each regulation that increases incremental cost, the offsetting regulations and approximation of total costs or savings associated with new regulation or repeal. It also requires regulations approved by OMB director during presidential budget process to be included in the Unified Regulatory Agenda; if it's not in the agenda, an agency can't issue a new rule unless approved by the OMB director. Agencies will also be given an incremental cost budget as part of budget process and can't exceed cost budget unless approved by OMB director.

The entire EO can be accessed on the White House website at: <https://www.whitehouse.gov/the-press-office/2017/01/30/presidential-executive-order-reducing-regulation-and-controlling>

Presidential Memorandum Regarding the Hiring Freeze

The memo freezes all hiring for federal positions vacant as of Jan. 22 and prevents agencies from creating new vacancies or utilizing contract support to circumvent the intent of the policy. The memo applies to all federal agencies and departments, regardless of funding source, with the exception of active-duty military personnel. Agency and department heads are also given leeway to exempt positions deemed necessary to meet national security or public safety responsibilities

During this initial restriction on hiring, the directors of OMB and the Office of Personnel Management (OPM) have 90 days to submit a plan for long-term reduction of the size of the federal workforce. In the meantime, the president encouraged federal offices to use the freeze to make their operations leaner:

“In carrying out this memorandum, I ask that you seek efficient use of existing personnel and funds to improve public services and the delivery of these services. Accordingly, this memorandum does not prohibit making reallocations to meet the highest priority needs and to ensure that essential services are not interrupted and national security is not affected.”

As with the limitations on regulatory action, the director of OMB has been granted authority to make exceptions for federal hiring under special, unspecified circumstances.

The entire memo can be accessed on the White House website at: www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-hiring-freeze. 

Supreme Court to Hear Jurisdictional Challenge Regarding Obama Water Rule

On Jan. 13, the U.S. Supreme Court agreed to hear *National Association of Manufacturers v. Department of Defense*. In the case, a series of industry groups seek the right to challenge in district court the Clean Water Act’s new definition of “waters of the United States.”

In February 2016, the U.S. Court of Appeals for the Sixth Circuit ruled that it had primary jurisdiction to hear challenges to the Clean Water Act. As reported in [Actionline](#), the decision would allow more than 30 separate suits to be combined in federal court and could have upset the balance between state and federal responsibility for policing waterways.

The Supreme Court’s consideration will not include the merits of the rule itself, mere the jurisdictional questions. The court’s eventual decision will define the path by which industry may challenge the authority of Environmental Protection Agency and Army Corps of Engineers to expansively regulate the nation’s inland waterways – which some claim include almost any standing water under the new definition.



Image Source: Website of House Majority Leader Kevin McCarthy, <https://www.majorityleader.gov/2015/05/27/epa-wotus-rule-latest-example-executive-overreach/>

Of course, shortly after the court's decision to hear the case was announced, Donald J. Trump was inaugurated as the United States' 45th president. Prior to taking office, Trump had indicated his administration would overturn the 2015 rule expanding the "waters of the United States" definition. Whether that will occur – as of press time, the administration had issued orders (see story above) that executive agencies cease most regulatory function pending review – remains to be seen, but might render the court's decision moot. 🌍

Pressure Pipe Post

ACPPA's Monthly Source for Industry News

January 2017

To keep members aware of the activities of government and standards organizations, we regularly sweep public databases and publications for the industry-specific terms indicated below. We then provide our members with links to documents identified in the search. Please note that in some cases the URLs may link to subscription-only databases. The purpose of this service is to identify emerging threats and trends as well as opportunities for collective action by ACPPA.

NEWS RESULTS

Coal Ash/Fly Ash

Designing Mixing Systems

01/24/2017 <http://www.powderbulksolids.com/article/Designing-Mixing-Systems-01-24-2017>

A mixing system consists of storage, measuring of ingredients, mixing, and delivering the product to the next operation in a useful form and meet the production required.

Fly Ash Basins Forcing Move of Southern Thruway Section

01/21/2017 http://www.newsitem.com/news/2017-01-21/Today%27s_Top_Stories/Fly_ash_basins_forcing_move_of_southern_thruway_se.html

A substance described as being like "toothpaste" or "milkshakes" is forcing the Pennsylvania Department of Transportation (PennDOT) to search for a different path of construction for the proposed southern portion of the Central Susquehanna Valley Thruway (CSVT).

Report: Coal Ash Stored in Chesapeake Vulnerable to Risks

01/15/2017 http://pilotonline.com/news/nation-world/virginia/report-coal-ash-stored-in-chesapeake-vulnerable-to-risks/article_7a25929c-5386-54d3-9404-6a90e4039c98.html

Millions of tons of ash stored at a former coal-fired power plant in the city will become increasingly vulnerable to flooding and other coastal risks, according to a report compiled for an environmental group that is seeking to have the ash moved.

[Australia] Fly Ash Plume from Port Augusta's Former Power Station Raises Health Concerns

01/02/2017 <http://www.abc.net.au/news/2017-01-02/port-augusta-residents-angered-by-fly-ash-plume/8157888>

Residents at Port Augusta in South Australia are furious at the amount of fly ash being blown across the regional city from its former coal-fired power station.

Safety**[Brazil] Pug Got Stuck in a Water Pipe for Six Hours**01/24/2017 <http://nypost.com/2017/01/24/pug-got-stuck-in-a-water-pipe-for-six-hours/>

A puppy in Brazil who got stuck in an underground water pipe for six hours is miraculously unharmed.

Man Trapped in Pipe for 26 Hours Now in 'Satisfactory' Condition01/15/2017 http://www.stltoday.com/news/local/metro/man-trapped-in-pipe-for-hours-now-in-satisfactory-condition/article_85e090f4-99fc-5c4c-a982-cc5a1fabde04.html

A 47-year-old man who was trapped in a pipe for 26 hours at a home construction site near New Melle is now in "fair or satisfactory condition," a spokesman for Mercy Hospital St. Louis in Creve Coeur said Sunday afternoon.

Sinkhole Dangers Lurk When Underground Infrastructure Fails01/09/2017 <http://www.seattlepi.com/news/us/article/Sinkhole-dangers-lurk-when-underground-10845193.php>

Massive sinkholes in Michigan and Pennsylvania in recent weeks underscore an often overlooked aspect of the nation's aging infrastructure lurking underground.

OSHA Issues Final Rule to Lower Workplace Exposure to Beryllium01/09/2017 <http://www.forconstructionpros.com/news/12292960/osha-issues-final-rule-to-lower-workplace-exposure-to-beryllium>

A new U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) issued rule dramatically lowers workplace exposure to beryllium, a strategically important material that can cause devastating lung diseases.

Infrastructure Policy**Elon Musk Tweets Mysterious 'Tunnel' Project**01/25/2017 <http://www.salon.com/2017/01/25/elon-musk-tweets-mystery-tunnel-boring-project/>

Elon Musk's already going high, and now he says he's going low. In mid-December the billionaire tweeted "Traffic is driving me nuts" and "am going to build a tunnel boring machine and just start digging."

After Trump Revived Dakota Access and KXL Pipes, Indigenous Water Protectors Rallied in Seattle01/25/2017 <http://www.thestranger.com/slog/2017/01/25/24822683/after-trump-revived-dakota-access-and-keystone-xl-pipelines-indigenous-water-protectors-marched-in-seattle>

As one of his first acts as president, Donald Trump signed an order to resurrect the Keystone XL Pipeline and push forward construction on the Dakota Access Pipeline, which indigenous water protectors brought to the world's attention last summer.

Working Across Party Lines to Push for Underground Infrastructure Funding

01/17/2017 <http://blog.timesunion.com/tedisco/working-across-party-lines-to-push-for-underground-infrastructure-funding/2126/>

One of my top priorities for the state budget is ensuring the safety and proper maintenance of our above ground and underground infrastructure that everyone depends on for safe drinking water, stormwater management, sewers and gas lines. New York's aging water and sewer infrastructure, some of which dates back to the Civil War, is the lurking monster which will not go away if we just closed our eyes and wished it away.

Water & Wastewater**Great News for Flint!**

01/26/2017 <http://wjimam.com/great-news-for-flint/>

According to the Michigan Department of Environmental Quality the city of Flint's water system lead content no longer exceeds the federal limit.

City's Dream of Desalinating Water Becomes Reality This Week

01/24/2017 <http://woai.iheart.com/articles/local-news-119078/citys-dream-of-desalinating-water-becomes-15497068/>

The eight-year dream of removing the salt from the brackish deep Carrizo-Willcox Aquifer south of the city will pay dividends when what is on line to become the largest water desalination plant in the state opens on Friday.

Letter: Aiken Must Address its Infrastructure

01/18/2017 http://www.aikenstandard.com/opinion/letter-aiken-must-address-its-infrastructure/article_7e8540f4-ddc4-11e6-b9be-c76aa6311b76.html

The Jan. 9 column by City Councilman Dick Dewar should be required reading for the mayor, all members of City Council and especially our new City Manager, John Klimm. In his column Mr. Dewar outlines the terrible condition of Aiken's aged water, sewer and stormwater systems and the projected cost to replace and/or repair.

Wisconsin City at Forefront of 'Water Wars'

01/16/2017 <http://www.toledoblade.com/local/2017/01/16/Wisconsin-City-at-forefront-of-water-wars.html>

This city has become the battleground for one of North America's fiercest water wars, one that is taking the Great Lakes region into more uncharted legal territory in 2017.

Editorial: Water is the Next Public Spending Worry

01/15/2017 <http://www.lansingstatejournal.com/story/opinion/editorials/2017/01/15/editorial-water-next-public-spending-worry/96540868/>

Add another item to the list of long-term public financial obligations that need more attention and additional upfront funding: Tap water.

Questa Water Crisis Ebbs as Village Eyes Long-Term Fixes

01/05/2017 http://www.taosnews.com/news/questa-water-crisis-ebbs-as-village-eyes-long-term-fixes/article_55ee6de4-d2d1-11e6-9585-5380c09c4a45.html

Paula Trujillo prayed every night for the resolve to deal with a water outage in Questa that left her home and family without running water for more than a month.

Officials Kick Off Sewer Project

01/05/2017 http://lufkindailynews.com/news/local/article_6e3ec590-d2e2-11e6-9ccc-f77a15a89a41.html

For those of us who live in a city, taking a shower, doing laundry or flushing the commode presents no problems.

Workforce Development**Lincoln Tech Launches New Training Programs For Welding Careers in Texas, Tennessee**

01/17/2017 <http://www.ktiv.com/story/34276478/lincoln-tech-launches-new-training-programs-for-welding-careers-in-texas-tennessee>

Lincoln Educational Services Corporation, a national leader in specialized technical training, is introducing two new training options this spring to help students begin hands-on careers that fill critical needs in the American job market.

Norwich Teen Wins National Contest After Scoring Mistake is Corrected

01/04/2017 <http://wtnh.com/2017/01/04/norwich-teen-wins-national-contest-after-scoring-mistake-is-corrected/>

Daria Stifel just received a gold medal at Norwich Technical High School for being best in the country in her field. She won it back in June, but it went to somebody else because of a typo.

REGULATORY RESULTS**Coal Ash/Fly Ash****Occupational Safety and Health Administration | Final Rule | Occupational Exposure to Beryllium**01/09/2017 <https://www.gpo.gov/fdsys/pkg/FR-2017-01-09/pdf/2016-30409.pdf>

OSHA is issuing three separate standards—for general industry, for shipyards, and for construction—in order to tailor requirements to the circumstances found in these sectors.

Sewer**Environmental Protection Agency | Proposed Rule | Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin**01/13/2017 <https://www.gpo.gov/fdsys/pkg/FR-2017-01-13/pdf/2016-31745.pdf>

The proposed rules, when finalized, will protect public health by ensuring timely notification to the public and to public health departments, public drinking water facilities and other potentially affected public entities, including Indian tribes.

Water Infrastructure**National Oceanic and Atmospheric Administration | Notice | Proposed Monterey Peninsula Water Supply Project; Notice of Availability of a Draft Environmental Impact Report/Environmental Impact Statement**01/13/2017 <https://www.gpo.gov/fdsys/pkg/FR-2017-01-13/pdf/2017-00505.pdf>

A permit application has been submitted by California American Water Company (CalAm) to NOAA's Monterey Bay National Marine Sanctuary (MBNMS) to construct and operate a reverse osmosis (RO) desalination facility project (Project) in Monterey County, California.

LEGISLATIVE RESULTS**Clean Water**

S. Res. 12 | Introduced by Fischer, Deb (R-Neb.) | A resolution expressing the sense of the Senate that clean water is a national priority, and that the June 29, 2015, Waters of the United States Rule should be withdrawn or vacated.

01/12/2017 <https://www.congress.gov/bill/115th-congress/senate-resolution/12>

Resolved, That it is the sense of the Senate that the final rule of the Administrator of the Environmental Protection Agency and the Chief of Engineers entitled "Clean Water Rule: Definition of 'Waters of the United States'" should be vacated.

