

**FEB 22 2012**

Mr. David Ries  
President  
MoGas Pipeline, LLC  
110 Algana Court  
St. Peters, MO 63376

**Re: CPF No. 3-2011-1009**

Dear Mr. Ries:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by MoGas Pipeline, LLC, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. David Barrett, Director, Central Region, OPS  
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED[71791000164203269833]**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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<b>In the Matter of</b>	)	
	)	
<b>MoGas Pipeline, LLC,</b>	)	<b>CPF No. 3-2011-1009</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

On October 4-8, 25-29, and November 1-4, 2010, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of MoGas Pipeline, LLC (MoGas or Respondent). MoGas is the operator of a 263-mile interstate natural gas pipeline that runs from Madison County, Illinois, to Pike County, Missouri.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated June 9, 2011, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that MoGas had committed certain violations of 49 C.F.R. Part 192 and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also proposed finding that MoGas had committed certain other probable violations of 49 C.F.R. Part 192 and warning Respondent to take appropriate corrective action or be subject to future enforcement action.

MoGas responded to the Notice by letter dated July 6, 2011 (Response). The company contested some of the allegations of violation and provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.167(a)(4), which states:

**§ 192.167 Compressor stations: Emergency shutdown.**

(a) Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

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<sup>1</sup> <http://www.gasnom.com/ip/mogas/ipindex.cfm> (last accessed December 19, 2011).

- (1) . . . .
- (4) It must be operable from at least two locations, each of which is:
  - (i) Outside the gas area of the station;
  - (ii) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and
  - (iii) Not more than 500 feet (153 meters) from the limits of the station. . . . .

The Notice alleged that MoGas violated §192.167(a)(4) by failing to have an emergency shutdown system (ESD System) at a fenced compressor station that was operable from at least two locations, each of which was outside the gas area of the compressor station and near the station's exit gates. Specifically, the Notice alleged that, in 2009, Respondent built a compressor station in Curryville, Missouri (Station), and that the two locations nearest the exit gates where the ESD System was operable had one switch at a warehouse exit adjacent to the compressor building and one on a fuel gas skid. The Notice alleged that these switches were approximately 300 feet from the exit gates on the northeast and east side of the station fencing, and that the ESD System switch on the fuel gas skid was not outside of the gas area.

In its Response, MoGas argued that the ESD System at the Station met the requirements in § 192.167. Respondent stated that the ESD System could be manually activated from six different locations at the Station, i.e., at each of the four exits for the compressor building and at two other locations between the perimeter fencing and the compressor building. MoGas further argued that the regulation "merely states that the ESD switches should be 'near' the exit gates if the station is fenced," that "this vague terminology is used in lieu of defining an actual distance," and that "the ESD switches at the fuel skid and east door of the office warehouse are 'near' the gates as required" by the regulation.<sup>2</sup>

Respondent also contended that the ESD switch on the fuel gas skid was part of the meter station area, not the compressor piping and therefore was located "outside of the gas area."<sup>3</sup> Finally, MoGas stated that the ESD System for the Station was part of the pipeline's Supervisory Control and Data Acquisition System (SCADA System) and could be activated by gas control room personnel at any time from any location.

Because the Station has perimeter fencing, § 192.167(a)(4) requires that the ESD System be operable from at least two locations that are (1) outside of the gas area for the station, (2) near the exit gates, and (3) not more than 500 feet from the limits of the station. The parties only dispute MoGas' compliance with the first and second requirements in this case, namely, whether the Station had two ESD switches outside of the gas area and near the exit gates.

I find that the Station does not have an ESD System that is operable from two locations outside of the gas area. While not explicitly defined in 49 C.F.R. Part 192, the "gas area" for purposes of § 192.167 would include any location likely to be exposed to an unsafe level of gas in the event of a leak or failure. Requiring the ESD System to be operable from outside such a location ensures that onsite personnel can safely shut down the compressor station in an emergency situation.

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<sup>2</sup> Response at 1.

<sup>3</sup> Response at 2.

In this case, MoGas had installed switches for the ESD System at a number of locations in the Station. That included the exits for the compressor building and an adjacent warehouse and on a fuel gas skid. None of these locations were located “outside of the gas area” for purposes of § 192.167, which was intended to ensure that compressor stations could be shut down during emergencies from safe locations outside of areas where gas could ignite.

The switch installed on the fuel gas skid was not isolated from unsafe levels of gas in the event of a leak or failure. Gas was transported in the piping and equipment associated with that skid and could ignite if a leak or failure occurred. Therefore, onsite personnel could not safely access the ESD switch at that location during emergencies.

The same can be said of the ESD switches installed at or near the compressor building. The piping and equipment in that building were also used to transport gas, which could ignite if a leak or failure occurred. Therefore, onsite personnel could not safely access the ESD switches in this area in the event of an emergency.

I further find that the ESD System at the Station was not operable from two locations “near the exit gates.” This requirement is intended to ensure that onsite personnel can activate the ESD System from a safe distance before leaving a compressor station in an emergency. The nearest ESD switches to the exit gates at the Station were located approximately 300 feet away and in the immediate vicinity of areas that could become unsafe if a release and ignition of gas occurred. Rather than being able to activate the ESD System while exiting the compressor station, onsite personnel might actually have to head back *toward* a hazardous area to activate the switches in the event of an emergency.

Accordingly, after considering all of the evidence, I find that MoGas violated § 192.167(a)(4) by failing to have an ESD System at the Station that was operable from at least two locations, each of which was located outside the gas area of the Station and near the exit gates.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c), which states:

**§ 192.709 Transmission lines: Record keeping.**

Each operator shall maintain the following records for transmission lines for the periods specified:

(a) . . . .

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that MoGas violated § 192.709(c) by failing to retain a record of each required patrol, survey, inspection, and test for at least five years or until the next patrol, survey, inspection, or test was completed, whichever was longer. Specifically, the Notice alleged that Respondent did not have records documenting the annual inspections for 34 flowcut regulators and 15 first cut regulators for several town border stations located throughout its system. The Notice further alleged that MoGas did not have records documenting the annual inspections of 15 regulators located on the bypass lines of several border stations on the southern portion of its system. The Notice indicated that Respondent had performed the required inspections but failed to maintain proper documentation.

In its Response, MoGas did not dispute the alleged violation. The company noted that the Missouri Public Service Commission had previously regulated its pipeline system and had not required MoGas to maintain the annual inspections records in question, because the operability of these devices could be continuously monitored through the company's SCADA System. Respondent requested an extension of time to provide the required documentation to the Director under the proposed compliance order.

Accordingly, after considering all of the evidence, I find that Respondent violated § 192.709(c) by failing to retain a record of each required patrol, survey, inspection, and test for at least five years or until the next patrol, survey, inspection, or test was completed, whichever was longer.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 1 and 4 in the Notice for violations of 49 C.F.R. §§ 192.167(a)(4) and 192.709(c), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.167(a)(4) (**Item 1**), Respondent must install two ESD switches near the exit gates located on the northeast and east sides of the fencing around the perimeter of the Station.
2. Within 90 days of the date of this Order, Respondent must complete and provide the Director with documentation of the installation required under paragraph 1.
3. With respect to the violation of § 192.709(c) (**Item 4**), Respondent must submit the required documentation for the annual inspections of the flowcut regulators, first cut regulators, and bypass regulators for the 2011 calendar year to the Director.
4. Within 30 days of the date of this Order, Respondent must comply with the requirements in paragraph 3 above.
5. It is requested that MoGas maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs be reported in two categories: 1) total costs associated with preparation/revision of plans, procedures, studies, and analyses; and 2) total costs associated with replacements, additions, and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

### **WARNING ITEMS**

With respect to Items 2 and 3, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.605(b)(8) (**Item 2**) — Respondent's alleged failure to prepare and follow procedures to periodically review the work done by operator personnel to determine the effectiveness and adequacy of the company's operation and maintenance procedures and to modify them where deficiencies were found; and

49 C.F.R. § 192.615(b)(2) (**Item 3**) — Respondent's alleged failure to train appropriate operating personnel to assure that they were knowledgeable of the company's emergency procedures and to verify that the training was effective.

MoGas presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued