



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 30, 2015

Mr. Jerry E. Sheridan
President and Chief Executive Officer
AmeriGas Partners, LP
460 North Gulph Road
King of Prussia, PA 19406

CPF 2-2015-0003

Dear Mr. Sheridan:

On May 19-23, October 9-10, 2014, and March 19, 2015, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety, inspected the AmeriGas Propane, LP (AmeriGas) records in Orlando, Florida and its liquefied petroleum gas (LPG) pipeline systems in Orange and Seminole counties, Florida, pursuant to Chapter 601 of 49 United States Code.

As a result of the inspection, it appears that AmeriGas has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are as follows:

- 1. § 192.614 Damage prevention program.**
... (b) An operator may comply with any of the requirements of paragraph (c) of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section. However, an operator must perform the duties of paragraph (c)(3) of this section through participation in a one-call system, if that one-call system is a qualified one-call system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in

place. For the purpose of this section, a one-call system is considered a “qualified one-call system” if it meets the requirements of section (b)(1) or (b)(2) of this section.

AmeriGas did not perform the duties of §192.614(c)(3) through participation in a qualified one-call system. Section 192.614(b) requires an operator's pipeline system to be covered by a qualified one-call system where there is one in place. Florida's Sunshine 811 is a qualified one-call system. At the time of the inspection, AmeriGas had not registered its Orlando District LPG distribution systems with Sunshine 811. Therefore, AmeriGas had not provided a means of receiving and recording notification of planned excavation activities in accordance with §192.614(c)(3).

2. § 192.723 Distribution systems: Leakage surveys.

... (b) The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:

(1) A leakage survey with leak detector equipment must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year.

AmeriGas did not conduct leakage surveys in business districts at intervals not exceeding 15 months, but at least once each calendar year. AmeriGas records showed that, for its systems located in business districts, it did not conduct any leak surveys of:

- Metro West in calendar year 2013
- Shoppes of Avalon in calendar years 2011, 2012, and 2013
- Shoppes of Oviedo in calendar years 2011, 2012, and 2013

3. § 192.723 Distribution systems: Leakage surveys.

... (b) The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:

... (2) A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months. However, for cathodically unprotected distribution lines subject to §192.465(e) on which electrical surveys for corrosion are impractical, a leakage survey must be conducted at least once every 3 calendar years at intervals not exceeding 39 months.

AmeriGas did not conduct leakage surveys outside business districts at least once every 5 calendar years at intervals not exceeding 63 months. AmeriGas records showed that it leakage surveyed its Lake Roper system on January 5, 2009, and did not leakage survey it again until May 19, 2014, a period which exceeded 63 months. The leakage survey should have been completed by April 5, 2014.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations.

The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$43,200 as follows:

<u>Item number</u>	<u>Penalty</u>
1	\$ 43,200

Warning Items

With respect to items 2 and 3, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to item 1, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to AmeriGas Partners, LP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 2-2015-0003** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Wayne T. Lemoi
Director, Office of Pipeline Safety
PHMSA Southern Region

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to AmeriGas Partners, LP a Compliance Order incorporating the following remedial requirements to ensure the compliance of AmeriGas Partners, LP with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to AmeriGas' failure to cover its pipeline systems by a qualified one-call system, AmeriGas must ensure that all of its PHMSA regulated systems in the state of Florida are covered by a qualified one-call system.
2. AmeriGas must complete the above items and prepare records to document the results within 90 days after the receipt of the Final Order.
3. Within 100 days following receipt of the Final Order, AmeriGas must provide to the Director, Office of Pipeline Safety, PHMSA Southern Region written documentation confirming that Compliance Order Items have been completed. The documentation, at a minimum, must include: a list of systems by district responsible for its operation, the date AmeriGas began operating the system, the date the system was first covered by a qualified one-call system, and verification that each system is actively covered by a qualified one-call system.
4. It is requested (not mandated) that AmeriGas maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Wayne T. Lemoi, Director, Southern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.