

**MAY 25 2011**

Mr. Ron Templeman  
General Manager  
Amerigas Eagle Propane, L.P.  
91-290 Hanua Street  
Kapolei, HI 96707-1783

**Re: CPF No. 5-2010-0005**

Dear Mr. Templeman:

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 Amerigas Eagle Propane, L.P., to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western 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. Chris Hoidal, Director, Western Region, PHMSA

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0075 9336]**

**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>Amerigas Eagle Propane, L.P.,</b>	)	<b>CPF No. 5-2010-0005</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

On December 8, 2008, 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 Amerigas Eagle Propane, L.P. (Amerigas or Respondent), in Kapolei, Hawaii. Amerigas operates propane gas distribution systems on several of the Hawaiian Islands, including 12 propane tank systems on the island of Oahu.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated February 12, 2010, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Amerigas had committed various violations of 49 C.F.R. Part 192 and proposed ordering Respondent to take certain measures to correct the alleged violations. By letter dated January 6, 2011, the Director reissued the Notice after learning that Amerigas had not received his previous letter.<sup>1</sup>

Amerigas responded to the Notice by letter dated March, 17, 2011 (Response). The company indicated it was “not contesting the Compliance Order,” provided information concerning the corrective actions it had taken, and submitted copies of its revised procedures. 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:

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<sup>1</sup> In the February 12, 2010 Notice, the Director alleged that Amerigas had failed to comply with the service line test requirements in 49 C.F.R. § 192.511 in October 1984. The Director did not include that allegation of violation in the January 6, 2011 Notice. *See In the Matter of Alon USA, LP*, C.P.F. 5-2004-5021, Decision on Petition for Reconsideration (Oct. 22, 2009) (finding that PHMSA enforcement actions under 49 C.F.R. Part 190 are subject to a 5-year statute of limitations).

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.463(a), which states:

**§ 192.463 External corrosion control: Cathodic protection.**

(a) Each cathodic protection system required by this subpart must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in appendix D of this part. If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria.

The Notice alleged that Amerigas violated 49 C.F.R. § 192.463(a) by failing to provide the level of cathodic protection required under the applicable criteria. Specifically, the Notice alleged that Respondent did not provide any cathodic protection for two segments of buried, 1-inch steel piping at the Ewa Complex and Maile Center. The Notice further alleged that the total length of those unprotected segments was approximately 200 feet.

Amerigas did not contest this allegation in its Response. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. 192.463(a) by failing to provide the level of cathodic protection required under the applicable criteria.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.491, which states:

**§ 192.491 Corrosion control records.**

(a) Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

(b) Each record or map required by paragraph (a) of this section must be retained for as long as the pipeline remains in service.

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§ 192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

The Notice alleged that Amerigas violated 49 C.F.R. 192.491 by failing to maintain any corrosion control records for a 250-foot, 3-inch line at the Westbridge Complex.

Respondent did not contest this allegation in its Response. Accordingly, after considering all of the evidence, I find that Amerigas violated 49 C.F.R. 192.491 by failing to maintain corrosion control records for its pipeline system.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 192.225, which states:

**§ 192.225 Welding procedures.**

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under section 5 of API 1104 (incorporated by reference, *see* § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code “Welding and Brazing Qualifications” (incorporated by reference, *see* § 192.7) to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard(s).

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

The Notice alleged that Respondent violated 49 C.F.R. 192.225 by failing to have any welding procedures for its steel pipelines.

In its Response, Amerigas did not contest the allegation but submitted a copy of section 5.5a of its Operations and Maintenance Manual, *Welding of Steel in Pipelines*.<sup>2</sup> Amerigas identified that section as being applicable to 10 different Code provisions. It consists of a two-paragraph written procedure but does not include detailed requirements for welder qualifications or re-qualifications, weld suitability or testing, or recordkeeping. Therefore, this procedure does not satisfy the requirements of § 192.225.

Accordingly, after considering all of the evidence, I find that Amerigas violated 49 C.F.R. § 192.225 by failing to have each welding procedure recorded in detail for its steel pipelines.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.245, which states:

**§ 192.245 Repair or removal of defects.**

(a) Each weld that is unacceptable under §192.241(c) must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipeline vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.

(b) Each weld that is repaired must have the defect removed down to sound metal and the segment to be repaired must be preheated if conditions exist which would adversely affect the quality of the weld repair. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability.

(c) Repair of a crack, or of any defect in a previously repaired area must be in accordance with written weld repair procedures that have been qualified under § 192.225. Repair procedures must provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair.

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<sup>2</sup> The written procedures submitted by Amerigas with its Response bear an effective date of February 2, 2010; these procedures replaced the previous version which had an effective date of November 1, 2008. Because the procedures which were submitted are inadequate for purposes of § 192.225, there is no need to decide the factual question of whether such procedures were in effect at the time of the December 2008 OPS inspection.

The Notice alleged that Respondent violated 49 C.F.R. 192.245 by failing to have any written procedures for the repair or removal of weld defects.

In its Response, Amerigas did not contest the allegation but submitted a copy of section 5.5a of its Operations and Maintenance Manual, *Welding of Steel in Pipelines*. Amerigas identified that section as being applicable to 10 different Code provisions. It consists of a two-paragraph written procedure, but does not include any detailed requirements for the repair or removal of weld defects.<sup>3</sup>

Accordingly, after considering all of the evidence, I find that Amerigas violated 49 C.F.R. 192.245 by failing to have adequate written procedures for the repair or removal of weld defects.

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, 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 192.463(a), 192.491, 192.225, and 192.245, 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. The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

With respect to the violation of 49 C.F.R. § 192.463(a) (**Item 1**), Amerigas is no longer providing regulated gas propane service to the customers at Ewa Complex or Maile Center. Therefore, the cathodic protection requirements no longer apply to the buried, 1-inch steel piping at those locations.

With respect to the violation of 49 C.F.R. § 192.491 (**Item 2**), Amerigas has replaced the 3-inch steel pipe at the Westbridge Complex with a 2-inch polyethylene pipe, which does not require cathodic protection or the maintenance of corrosion control records.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice for Items 1 and 2 are not included in this Order.

As for the remaining compliance terms, 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 § 192.225 (**Item 3**), Respondent must establish adequate written welding procedures for its steel pipelines.

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<sup>3</sup> See 49 C.F.R. § 192.225 (b) (stating that “[e]ach welding procedure must be recorded in detail, including the results of the qualifying tests,” and that “[t]his record must be retained and followed whenever the procedure is used.”).

2. With respect to the violation of § 192.245 (**Item 4**), Respondent must establish adequate written procedures for the repair or removal of weld defects.
3. Within 90 days of receipt of this Final Order, Respondent must complete the actions specified in Items 1 and 2 above.
4. It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling the terms of this Compliance Order and that the total be submitted to Mr. Chris Hoidal, Director, Western Region, PHMSA. It is further requested that those costs be reported in two categories: 1) total costs associated with the 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 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.

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