

February 28, 2022

VIA ELECTRONIC MAIL TO: myoung@glendaleca.gov

Mr. Mark Young
General Manager
City of Glendale, California, Glendale Water & Power
613 E. Broadway, Suite 200
Glendale, California 91206

Re: CPF No. 5-2021-037-NOPV

Dear Mr. Young:

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 the City of Glendale, California, Glendale Water and Power 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 e-mail is effective upon the date of transmission and acknowledgment of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Mr. Roubik Golanian, City Manager, Glendale Water & Power,
rgolanian@glendaleca.gov
Mr. Rostamik Chetin, Mechanical Engineer II, Glendale Water & Power,
rchetin@glendaleca.gov

CONFIRMATION OF RECEIPT REQUESTED

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

In the Matter of)	
)	
City of Glendale, California,)	
Glendale Water & Power,)	CPF No. 5-2021-037-NOPV
)	
Respondent.)	
)	

FINAL ORDER

From April 27, 2021 through April 29, 2021, a representative of the California Public Utilities Commission, on behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the City of Glendale, California, Glendale Water and Power’s (Glendale or Respondent) records for its Scholl Landfill Gas Pipeline. Glendale operates a 5.5-mile natural gas transmission pipeline.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated September 17, 2021, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Glendale had violated 49 C.F.R. §§ 192.603(b), 192.616(a), and 192.807 and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included one warning item pursuant to 49 C.F.R. § 190.205, which required no further action, but warned the operator to correct the probable violation or face possible future enforcement action

Glendale responded to the Notice by letter dated October 13, 2021 (Response). Glendale did not contest the allegations of violation. In its Response, Glendale provided additional information, and requested modifications of the Proposed Compliance Order (PCO). 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 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b), which states:

¹ Pipeline Safety Violation Report (Violation Report), (September 17, 2021) (on file with PHMSA), at 1.

§ 192.603 General provisions.

(a)

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605. Specifically, the Notice alleged that Glendale failed to conduct an evaluation of its Public Awareness Program, as required by its *Operations & Maintenance Procedures*, Procedure #18.01: Public Awareness (Revised: September 2018).² During the inspection, Glendale was unable to provide records establishing that it had conducted the requisite evaluation.

Respondent did not contest this allegation of violation. Accordingly, after considering the evidence, I find that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.616(a), which states:

§ 192.616 Public awareness.

(a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, *see* § 192.7).

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(a) by failing to implement a written continuing public education program that follows the guidance provided in API RP 1162. Specifically, the Notice alleged that Glendale failed to distribute public awareness brochures to stakeholders pursuant to API RP 1162 Section 5, and as required by Glendale's *Operations & Maintenance Procedures*, Procedure #18.01: Public Awareness (Revised: September 2018).

Respondent did not contest this allegation. Accordingly, after considering the evidence, I find that Respondent violated 49 C.F.R. § 192.616(a) by failing to implement a written continuing public education program that follows the guidance provided in API RP 1162.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.807, which states:

§ 192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

The Notice alleged that Respondent violated 49 C.F.R. § 192.807 by failing to maintain records

² See API RP 1162, Section 8 (providing guidance to operators on how to periodically evaluate their Public Awareness Programs) (incorporated by reference, *see* §§ 192.7(b)(5) and 192.616). Further, Respondent's *Operations & Maintenance Procedures* were established under § 192.605.

that demonstrate compliance with Part 192, Subpart N – Qualification of Pipeline Personnel. Specifically, the Notice alleged that during the inspection Glendale was unable to produce records indicating the qualification of individuals who perform locate and mark activities, as required by § 192.805 of Subpart N.

Respondent did not contest this allegation. Accordingly, after considering the evidence, I find that Respondent violated 49 C.F.R. § 192.807 by failing to maintain records that demonstrate compliance with Part 192, Subpart N – Qualification of Pipeline Personnel.

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 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 192.603(b), 192.616(a), and 192.807, 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.

With regard to the violation of § 192.603(b) (Item 2), Respondent requested the compliance terms be modified. The proposed compliance order (PCO) for Item 2 stated that “Glendale must conduct and submit the required Public Awareness Program Effectiveness evaluation to PHMSA within 180 days of issuance of the Final Order.” Glendale requested an extension of the compliance deadline until after it receives feedback on the public awareness education materials it sent to the public, appropriate government organizations, and persons engaged in excavation-related activities (mailers). Glendale contended that it cannot complete an effectiveness evaluation until after it receives four years’ worth of feedback on these mailers.

After evaluating Glendale’s response, I do not agree that the requested extension of the compliance deadline is warranted. Notably, Glendale does not provide a date by which it will receive the feedback, or how much additional time it will need after it receives the feedback to conduct its effectiveness evaluation. I am unable to grant an open-ended extension. Glendale may use what it has already collected from previous mailers to complete an effectiveness evaluation. Further, nothing in this decision precludes the Director from granting an extension of time to comply upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Glendale also requested modification to the PCO to note that if the pipeline is abandoned prior to the compliance deadline, then the company will not need to complete the PCO for Items 2, 3, and 4. I agree with the second proposed modification to the PCO. The following sentence will be added to the Compliance Order for Items 2, 3, and 4: “If Glendale chooses to abandon the pipeline prior to the compliance deadline and submits documentation to the Director evidencing that it has completed abandonment pursuant to 49 C.F.R. § 192.727, it does not need to take the actions in this section.”

For the above reasons, the Compliance Order is modified as set forth below.

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 § 192.603(b) (**Item 2**), Respondent must:
 - A. Conduct and submit the required Public Awareness Program Effectiveness evaluation to PHMSA within 180 days of issuance of the Final Order. If Glendale chooses to abandon the pipeline prior to the compliance deadline and submits documentation to the Director evidencing that it has completed abandonment pursuant to 49 C.F.R. § 192.727, it does not need to take the actions in this section.
2. With respect to the violation of § 192.616(a) (**Item 3**), Respondent must:
 - B. Distribute the Public Awareness messages to the affected stakeholder groups and provide proof of distribution to PHMSA within 60 days of issuance of the Final Order. If Glendale chooses to abandon the pipeline prior to the compliance deadline and submits documentation to the Director evidencing that it has completed abandonment pursuant to 49 C.F.R. § 192.727, it does not need to take the actions in this section.
3. With respect to the violation of § 192.807 (**Item 4**), Respondent must:
 - C. Train and qualify the individuals who locate and mark the pipeline and provide those records for inspection to PHMSA within 30 days of issuance of the Final Order. If Glendale chooses to abandon the pipeline prior to the compliance deadline and submits documentation to the Director evidencing that it has completed abandonment pursuant to 49 C.F.R. § 192.727, it does not need to take the actions in this section.

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.

PHMSA requests that Respondent 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 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), 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 ITEM

With respect to Item 1, the Notice alleged a probable violation of Part 192, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 192.605(a) (**Item 1**) — Respondent's alleged failure to review and update its manual of written procedures at intervals not exceeding 15 months, but at least once each calendar year.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect 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.

February 28, 2022

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued