

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 26, 2013

Mr. Rufus Youngblood
Division Safety Manager
Ferrell Gas
1 Liberty Plaza
Liberty, Missouri 64068

CPF 3-2013-0001

Dear Mr. Youngblood:

On September 5, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected your propane distribution facilities in Green Bay, Wisconsin.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §192.11 Petroleum gas systems.

(b) Each pipeline system subject to this part that transports petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

Ferrell Gas did not comply with the requirements of §192.11 by failing to follow the requirements of ANSI/NFPA 59. NFPA 59 requires incorporation of specific standards and requirements regarding the design, operations and maintenance of utility gas plants greater than 4000 gallons aggregate water capacity.

Ferrell Gas stated it is only using NFPA 58 in the design, operations and maintenance of its utility gas plants greater than 4000 gallons. The inspected facilities include Glidden Lodge, Heritage Lake and Jellystone Park, located in Sturgeon Bay, Egg Harbor and Warrens, Wisconsin.

2. §192.11 Petroleum gas systems.

(b) Each pipeline system subject to this part that transports petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

Ferrell Gas did not comply with the requirements of §192.11 by failing to follow the requirements of ANSI/NFPA 58 Section 6.7.4.6. Section 6.7.4.6 requires the point of discharge to be located not less than five feet (1.5 m) in any direction away from any source of ignition, openings into direct-vent (sealed combustion system) appliances, or mechanical ventilation air intakes.

On Lot #11610 located at Meadow Woods, a source of ignition was identified less than five feet from the regulator vent.

On Lot #5269 located at Horseshoe Bay Cobblestone, a source of ignition was identified less than five feet from the regulator vent.

3. §192.11 Petroleum gas systems.

(b) Each pipeline system subject to this part that transports petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

Ferrell Gas did not comply with the requirements of §192.11 by failing to follow the requirements of ANSI/NFPA 58 Section 5.7.5.1. Section 5.7.5.1 requires pipe or tubing used to vent regulators to be one of the following: Metal pipe and tubing in accordance with 5.8.3 (2) PVC meeting the requirements of UL 651, Schedule 40 or 80 Rigid PVC Conduit.

The piping from the regulator vent at Glidden Lodge was white PVC water pipe. White PVC water pipe does not satisfy the requirements of NFPA 58 or §192.11.

4. §192.11 Petroleum gas systems.

(b) Each pipeline system subject to this part that transports petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

Ferrell Gas did not comply with the requirements of §192.11 by failing to follow the requirements of ANSI/NFPA 58 Section 6.7.2.5. Section 6.7.2.5 requires rain caps or other protectors to be designed to remain in place, except during pressure relief device operation, and shall not restrict pressure relief device flow.

At Glidden Lodge, the rain caps for the pressure relief devices were not in place under the hood of the underground tank. Ferrell Gas believes the caps were removed during the filling of the tank and personnel did not put them back on. Because rain caps were not in place, there was no means to determine if they were removed or if there was a pressure relief operation that occurred on the tank.

5. §192.11 Petroleum gas systems.

(b) Each pipeline system subject to this part that transports petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

Ferrell Gas did not comply with the requirements of §192.11 by failing to follow the requirements of ANSI/NFPA 59 Section 10.1.4. Section 10.1.4 requires testing of relief devices, other than hydrostatic relief valves, to be tested for proper operation at intervals not exceeding five years.

Ferrell Gas stated they do not inspect relief devices on the tanks at intervals not exceeding five years. Ferrell Gas is using NFPA 58 (which is silent on the inspection of relief devices on tanks) instead of NFPA 59 to maintain each facility.

6. §192.605 Procedural manual for operations, maintenance, and emergencies

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.

Ferrell Gas did not follow the Operation and Maintenance (O&M) manual required by §192.605.

In “Section 1 – Corrosion Protection – Above Ground Tanks and Piping” of the O&M manual it requires Ferrell Gas to inspect and maintain above ground piping to prevent atmospheric corrosion. Section 1 states “Protect tanks and above ground piping from atmospheric corrosion by paint or other protective coating such as galvanizing.”

The above ground piping at Glidden Lodge, Meadow Woods, Horseshoe Bay and Heritage Lake was observed during PHMSA’s September 2012 inspection to be not painted and slightly pitted on riser piping. Ferrell Gas has records that indicate an inspection of the above ground piping was performed in July 2012. The records indicate the piping was in good condition and no paint was needed. Actual visual observations do not match records. Therefore, Ferrell Gas failed to properly maintain its piping as required under Section 1 of its O&M manual in violation of §192.605.

7. §192.517 Records

(a) Each operator shall make, and retain for the useful life of the pipeline, a record of each test performed under §§ 192.505 and 192.507. The record must contain at least the following information:

- (1) The operator's name, the name of the operator's employee responsible for making the test, and the name of any test company used.**
- (2) Test medium used.**
- (3) Test pressure.**
- (4) Test duration.**
- (5) Pressure recording charts, or other record of pressure readings.**
- (6) Elevation variations, whenever significant for the particular test.**
- (7) Leaks and failures noted and their disposition.**

Ferrell Gas did not document and keep records of pressure tests conducted at each facility. Ferrell Gas’s failure to keep records is in violation of §192.517 requirements.

8. §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.

Ferrell Gas did not conduct leak surveys in business districts once each calendar year, at intervals not exceeding 15 months. Jellystone Park facility has a hotel, a large indoor water park and 77 residential units. The last leak survey was conducted in April 2007.

Warning Items

With respect to items 1-5, 7 and 8, 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 6 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Ferrell Gas. 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 thirty (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 3-2013-0001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

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 Ferrell Gas a Compliance Order incorporating the following remedial requirements to ensure the compliance of Ferrell Gas with the pipeline safety regulations:

1. In regard to Item Number 6 of the Notice pertaining to the failure of Ferrell Gas to inspect and maintain above ground piping in accordance with the O&M manual to prevent atmospheric corrosion, the operator shall perform atmospheric corrosion surveys of above ground piping for Glidden Lodge, Meadow Woods, Horseshoe Bay and Heritage Lake. Submit associated documentation for the surveys, photos, and deficiencies corrected to this Office within 60 days. Any deficiencies shall be immediately corrected.

2. It is requested that Ferrell Gas maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to David Barrett, Director, Central 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.