

**NOVEMBER 15, 2013**

Mr. Michael J. Dunn, Jr.  
President and Chief Executive Officer  
Suburban Propane, LP  
One Suburban Plaza  
240 Route 10 West  
Whippany, NJ 07981

**Re: CPF No. 3-2013-0003**

Dear Mr. Dunn:

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 Suburban Propane, LP, 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: Ms. Linda Daugherty, Director, Central Region, OPS  
Mr. Ed Moreno, CSC Manager – WI Market, Suburban Propane, LP, 800 South Division  
Street, Suite D, Wanakee, WI 53597

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**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>Suburban Propane, LP,</b> )	<b>CPF No. 3-2013-0003</b>
<b>f/k/a Tru-Gas, Inc.,</b> )	
)	
<b>Respondent.</b> )	
_____ )	

**FINAL ORDER**

On September 17, 2012, 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 Suburban Propane, LP (Suburban Propane or Respondent), in Lacrosse, Wisconsin. Suburban Propane is a nationwide marketer and distributor of energy products, specializing in propane, fuel oil, and refined fuels.<sup>1</sup> At its Wisconsin location, Suburban Propane operates a propane distribution system serving residential customers,<sup>2</sup> including ones at the Pineview, Bluffside and Terlinqua Trailer Parks.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated June 26, 2013, a Notice of Probable Violation and Proposed Compliance Order (Notice), which also included several warning items pursuant to 49 C.F.R. § 190.205.<sup>3</sup> In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed various violations of 49 C.F.R. Part 192 and ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action, but warned the operator to correct the probable violations or face possible enforcement action.

Suburban Propane responded to the Notice by letter dated July 25, 2013 (Response). Respondent

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<sup>1</sup> Suburban Propane, About Us, *available at* <http://www.suburbanpropane.com/about> (last accessed September 26, 2013).

<sup>2</sup> Tru-Gas, About Us, *available at* [http://www.trugaspropane.com/trugaspropane/About\\_Us.html](http://www.trugaspropane.com/trugaspropane/About_Us.html) (last accessed September 26, 2013).

<sup>3</sup> The Notice was erroneously issued to Tru-Gas, Inc., the former operator of the facilities that are the subject of this Final Order. Tru-Gas, Inc. was acquired by Suburban Propane, LP, on August 1, 2012, prior to the date of PHMSA's inspection. *See* Suburban Propane, LP, Welcome to Suburban Propane, *available at* <http://www.suburbanpropane.com/welcomes/august2012/trugaspropane.html> (last accessed September 26, 2013).

did not contest the allegations of violation and requested additional time to submit documentation of the corrective actions it had taken. The company did not request a hearing and therefore has waived its right to one.

### **FINDINGS OF VIOLATION**

In its Response, Suburban Propane did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.465(a), which states:

**§ 192.465 External corrosion control: Monitoring.**

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

The Notice alleged that Respondent violated 49 C.F.R. § 192.465(a) by failing to test one of its propane pipeline systems that was under cathodic protection at least once each calendar year, but at intervals not exceeding 15 months, to determine whether the cathodic protection met the requirements of 49 C.F.R. § 192.463. Specifically, the Notice alleged that Respondent failed to perform annual surveys on 47 cathodically-protected steel risers that are part of Respondent's pipeline distribution system at the Pineview Trailer Park in Lacrosse, Wisconsin.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.465(a) by failing to test 47 steel risers that were under cathodic protection at least once each calendar year, but at intervals not exceeding 15 months, to determine whether the cathodic protection met the requirements of 49 C.F.R. § 192.463.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 192.481(a), which states:

**§ 192.481 Atmospheric corrosion control: Monitoring.**

(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore .....	At least once every 3 calendar years, but with intervals not exceeding 39 months
Offshore .....	At least once each calendar year, but with intervals not exceeding 15 months

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(a) by failing to perform atmospheric corrosion inspections at least once every three calendar years, but with intervals not exceeding 39 months, on each portion of its pipeline exposed to the atmosphere. Specifically, the Notice alleged that Suburban Propane failed to inspect 47 steel risers that are part of its pipeline system at the Pineview Trailer Park in Lacrosse, Wisconsin, for evidence of atmospheric corrosion at least once every three calendar years. The Notice alleged that at the time of the inspection, Suburban Propane could not produce any documentation to demonstrate it had conducted atmospheric corrosion inspections within the last three calendar years.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(a) by failing to perform atmospheric corrosion inspections at least once every three calendar years, but with intervals not exceeding 39 months, on each portion of its pipeline distribution system exposed to the atmosphere.

**Item 6:** The Notice alleged that Respondent violated 49 C.F.R. § 192.491(a), 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.

The Notice alleged that Respondent violated 49 C.F.R. § 192.491(a) by failing to maintain records or maps showing the location of cathodically protected piping and galvanic anodes at one of its pipeline distribution systems. Specifically, the Notice alleged that Suburban Propane failed to record the location of 47 cathodically protected steel risers and the approximate location of the anodes at the Pineview Trailer Park. The Notice further alleged that at the time of the inspection, Suburban Propane did not provide any evidence demonstrating that it maintained records or maps of its Pineview pipeline system showing the location of cathodically protected piping or anodes.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.491(a) by failing to maintain records or maps showing the location of its cathodically protected piping and galvanic anodes at

the Pineview Trailer Park.

**Item 7:** The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b), which states:

**§ 192.805 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) Identify covered tasks;
- (b) Ensure through evaluation that individuals performing covered tasks are qualified; . . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b) by failing to follow a written qualification program with provisions to ensure through evaluation that individuals performing covered tasks were qualified. Specifically, the Notice alleged that Suburban Propane failed to ensure that its Operator Qualification (OQ) coordinator, Shawn Allen, was qualified to perform each of the covered tasks listed in Respondent's OQ manual. The Notice further alleged that at the time of the inspection, Suburban Propane failed to produce evidence indicating that Mr. Allen was qualified to perform such covered tasks.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.805(b) by failing to follow a written qualification program with provisions to ensure through evaluation that individuals performing covered tasks were qualified.

**Item 8:** The Notice alleged that Respondent violated 49 C.F.R. § 192.16(c), which states:

**§ 192.16 Customer notification.**

(a) This section applies to each operator of a service line who does not maintain the customer's buried piping up to entry of the first building downstream, or, if the customer's buried piping does not enter a building, up to the principal gas utilization equipment or the first fence (or wall) that surrounds that equipment. For the purpose of this section, "customer's buried piping" does not include branch lines that serve yard lanterns, pool heaters, or other types of secondary equipment. . . .

(c) Each operator shall notify each customer not later than August 14, 1996, or 90 days after the customer first receives gas at a particular location, whichever is later. However, operators of master meter systems may continuously post a general notice in a prominent location frequented by customers.

The Notice alleged that Respondent violated 49 C.F.R. § 192.16(c) by failing to notify each customer of buried piping that is not maintained by the operator, within 90 days after each customer first receives gas service. Specifically, the Notice alleged that PHMSA investigators observed buried customer piping throughout the Bluffside Trailer Park in Desoto, Wisconsin, but that Suburban Propane had failed to notify customers of such buried customer piping within 90 days after each customer first received gas service. At the time of inspection, Suburban Propane

did not provide any evidence demonstrating that Respondent notified customers at the Bluffside Trailer Park of buried customer piping.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.16(c) by failing to notify each customer of buried piping that is not maintained by the operator within 90 days after each customer first receives gas service.

**Item 10:** The Notice alleged that Respondent violated 49 C.F.R. § 192.707(d)(2), which states:

**§ 192.707 Line markers for mains and transmission lines.**

(a) . . . .

(d) *Marker warning.* The following must be written legibly on a background of sharply contrasting color on each line marker:

(1) . . . .

(2) The name of the operator and the telephone number (including area code) where the operator can be reached at all times.

The Notice alleged that Respondent violated 49 C.F.R. § 192.707(d)(2) by failing to provide on its line marker signs the name of the operator and the telephone number where the operator could be reached at all times. Specifically, the Notice alleged that Suburban Propane listed the incorrect operator name and telephone number on several line markers located at the Bluffside, Pineview and Terlinqua Trailer Parks, rendering the operator unable to be reached at all times.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.707(d)(2) by failing to provide on line marker signs the correct operator name and telephone number where the operator could be reached at all times.

**Item 11:** The Notice alleged that Respondent violated 49 C.F.R. § 192.743(a), which states:

**§ 192.743 Pressure limiting and regulating stations: Capacity of relief devices.**

(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in § 192.739(b), the capacity must be consistent with the pressure limits of § 192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

The Notice alleged that Respondent violated 49 C.F.R. § 192.743(a) by failing to determine at least once each calendar year, but at intervals not exceeding 15 months, whether its pressure relief devices at pressure limiting stations and pressure regulating stations had sufficient capacity to protect the facilities to which they were connected, consistent with the pressure limits of 49 C.F.R. § 192.201(a). Specifically, the Notice alleged that Suburban Propane failed to check

its relief devices at least annually and that Respondent did not provide any documentation at the time of the inspection demonstrating that its relief devices had been properly tested.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.743(a) by failing to determine at intervals not exceeding 15 months, but at least once each calendar year, whether its pressure relief devices had sufficient capacity to protect its facilities.

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 4, 5, 6, 7, 8, 10, and 11 in the Notice for violations of 49 C.F.R. §§ 192.465(a), 192.481(a), 192.491(a), 192.805(b), 192.16(c), 192.707(d)(2), and 192.743(a), 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 § 192.465(a) (**Item 4**), Respondent must perform a cathodic protection survey on the 47 steel risers and assure that the readings provide a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D of Part 192. Any deficiencies must be immediately corrected.
2. With respect to the violation of § 192.481(a) (**Item 5**), Respondent must inspect all aboveground steel piping at the Pineview Trailer Park for evidence of atmospheric corrosion and correct any deficiencies.
3. With respect to the violation of § 192.491(a) (**Item 6**), Respondent must revise all applicable maps to ensure adequate documentation.
4. With respect to the violation of § 192.805(b) (**Item 7**), Respondent must ensure that any individual who performs a covered task on a pipeline is qualified on that task.
5. With respect to the violation of § 192.16(c) (**Item 8**), Respondent must provide notification to affected customers of buried customer piping.
6. With respect to the violation of § 192.707(d)(2) (**Item 10**), Respondent must perform a survey on each of its systems and correct any deficiencies found with its line markers.

7. With respect to the violation of § 192.743(a) (**Item 11**), Respondent must check the capacity of relief devices at or near the tank (ex, Fisher 289H).
8. Respondent must submit documentation demonstrating compliance with each of the items outlined in this Compliance Order to the Director, Central Region, within 60 days of receipt of this Order.
9. PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Central Region. It is requested that these costs be reported in two categories: (1) total costs associated with the preparation and 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 \$200,000 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 1, 2, 3, and 9, 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. § 192.11 (**Item 1**) — Respondent's alleged failure to test relief devices for proper operation at intervals not exceeding five years, in accordance with ANSI/NFPA 59 Section 10.1.4;
- 49 C.F.R. § 192.11 (**Item 2**) — Respondent's alleged failure to take precautions against damage to liquefied petroleum gas systems where vehicular traffic is a possibility, in accordance with ANSI/NFPA 58 Section 4.4;
- 49 C.F.R. § 192.11 (**Item 3**) — Respondent's alleged failure to minimize the possibility of the entrance of water or other extraneous matter into relief devices or discharge piping, in accordance with ANSI/NFPA 58 Section 6.7.2.4; and
- 49 C.F.R. § 192.605 (**Item 9**) — Respondent's alleged failure to periodically review the work done by operator personnel to determine the effectiveness and adequacy of the procedures used in normal operations and maintenance.



Respondent is advised to take appropriate action to correct these items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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