



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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12300 W Dakota Ave , Suite 110
Lakewood, CO 80228

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 19, 2007

Mr. Ron Templeman, P.E.
Amerigas Propane
91 – 290 Hanua Street
Kapolei, HI 96707-1783

CPF 5-2007-0022

Dear Mr. Templeman:

On November 13, 2006, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your distribution facilities in Kapolei, Hawaii.

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

1. **§191.1 Scope**

(a) This part prescribes requirements for the reporting of incidents, safety-related conditions, and annual pipeline summary data by operators of gas pipeline facilities located in the United States or Puerto Rico, including pipelines within the limits of the Outer Continental Shelf as that term is defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331].

Records were unavailable at the time of the inspection to substantiate compliance with this section. Amerigas has never submitted an Annual Report, and acknowledged that Operation and Maintenance procedures have never been initiated.

2. §192.605 Procedural manual for operations, maintenance, and emergencies

Each operator shall include the following in its operating and maintenance plan:

(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. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least one each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and Subpart M of this part.

(2) Controlling corrosion in accordance with the operations and maintenance requirements of Subpart I of this part.

(3) Making construction records, maps, and operating history available to appropriate operating personnel.

(4) Gathering of data needed for reporting incidents under Part 191 of this chapter in a timely and effective manner.

(5) Starting up and shutting down any part of the pipeline in a manner designed to assure operation within the MAOP limits prescribed by this part, plus the build-up allowed for operation of pressure-limiting and control devices.

(6) Maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service.

(7) Starting, operating and shutting down gas compressor units.

(8) Periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedure when deficiencies are found.

(9) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.

(10) Systematic and routine testing and inspection of pipe-type or bottle-type holders including -

(i) Provision for detecting external corrosion before the strength of the container has been impaired;

- (ii) Periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas which, if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant; and,
 - (iii) Periodic inspection and testing of pressure limiting equipment to determine that it is in safe operating condition and has adequate capacity.
- (11) Responding promptly to a report of a gas odor inside or near a building, unless the operator's emergency procedures under §192.615(a)(3) specifically apply to these reports.
- (c) Safety-related condition reports. The manual required by paragraph (a) of this section must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of §191.23 of this subchapter.
- (d) Surveillance, emergency response, and accident investigation. The procedures required by §§192.613(a), 192.615, and 192.617 must be included in the manual required by paragraph (a) of this section.

When Operation and Maintenance procedures are developed in accordance with §192.603, Amerigas must maintain records to administer these procedures for operation of its pipeline system.

3. §192.614 Damage prevention program

- (a) Except for pipelines listed in paragraphs (d) and (e) of this section, each operator of a buried pipeline shall carry out in accordance with this section a written program to prevent damage to that pipeline by excavation activities. For the purpose of this section, "excavation activities" include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means, and other earth moving operations. An operator may perform any of the duties required by paragraph (b) 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.
- (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.

(1) The state has adopted a one-call damage prevention program under Sec. 198.37 of this chapter; or

(2) The one-call system:

(i) Is operated in accordance with Sec. 198.39 of this chapter;

(ii) Provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities;

And

(iii) Assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline.

(c) The damage prevention program required by paragraph (a) of this section must, at a minimum:

(1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.

(2) Provides for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in paragraph (c)(1) of this section of the following as often as needed to make them aware of the damage prevention program:

(i) The program's existence and purpose; and

(ii) How to learn the location of underground pipelines before excavation activities are begun.

(3) Provide a means of receiving and recording notification of planned excavation activities.

(4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings.

(5) Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins.

(6) Provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

(i) The inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

(ii) In the case of blasting, any inspection must include leakage surveys

(d) A damage prevention program under this section is not required for the following pipelines:

(1) Pipelines located offshore.

(2) Pipelines, other than those located offshore, in Class 1 or 2 locations until September 20, 1995.

(3) Pipelines to which access is physically controlled by the operator.

(e) Pipelines operated by persons other than municipalities (including operators of master meters) whose primary activity does not include the transportation of gas need not comply with the following:

(1) The requirement of paragraph (a) of this section that the damage prevention program be written; and

(2) The requirements of paragraphs (c)(1) and (c)(2) of this section.

Records were unavailable at the time of the inspection to substantiate that a program was in place to prevent damage to its pipelines as a result of excavation.

Proposed Compliance Order

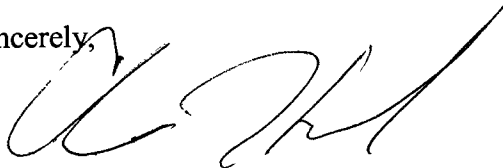
Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Amerigas. Please refer to the *Proposed Compliance Order* that is enclosed and made a part of this Notice.

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. Be advised that all material you submit in response to this enforcement action is subject to being 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 5-2007-0022** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 J. Kenerson (#116801)

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to establishing procedures for reporting incidents, safety-related conditions, and annual pipeline summary data by operators of gas pipeline facilities, Amerigas must prepare, submit, and follow a written procedure.
2. In regard to Item Number 2 of the Notice pertaining to the requirement to keep records that administer its procedures, prepare a manual of written procedures for conducting operations and maintenance activities and for emergency response, reporting incidents under Part 191, as well as all other requirements under §192.605 applicable to Amerigas's operation, Amerigas must submit and follow written procedures to fill the requirements for conducting operations and maintenance activities and for emergency response, reporting incidents under Part 192, as well as all other requirements under 192.605 applicable to Amerigas's operation.
3. In regard to Item Number 3 of the Notice pertaining to establishment of a damage prevention program, Amerigas must submit a written program to prevent damage to its pipeline by excavation activities.
4. Amerigas Propane shall maintain documentation of the safety improvement costs associated with fulfilling this compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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.