

May 31, 2017

Mr. Peter Preciado
Public Works and Utilities Director
City of Coalinga
155 West Durian Avenue
Coalinga, CA 93210

Re: CPF No. 5-2016-0013M

Dear Mr. Preciado:

Enclosed please find the Order Directing Amendment issued in the above-referenced case. It makes findings of inadequate procedures and requires that the City of Coalinga amend certain of its operating and maintenance procedures. When the amendment of procedures is completed, as determined by the Director, Western Region, this enforcement action will be closed. Service of the Order Directing Amendment 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,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Kim West, Acting Director, Western Region, Office of Pipeline Safety, PHMSA

CERTIFIED MAIL - RETURN 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 Coalinga, California,)	CPF No. 5-2016-0013M
a municipal corporation,)	
)	
Respondent.)	
)	

ORDER DIRECTING AMENDMENT

From November 16 to 19, 2015, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the written procedures of the City of Coalinga in Coalinga, California (City or Respondent). The City operates its own natural gas distribution system.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated August 31, 2016, a Notice of Amendment (Notice), alleging that the City’s procedures for operations, maintenance, and emergencies were inadequate and proposing, in accordance with 49 C.F.R. § 190.206, that Respondent amend its procedures.¹

After requesting and receiving an extension of time to respond, the City responded to the Notice by letter dated January 30, 2017 (Response), and submitted revised procedures. Respondent did not request a hearing and therefore has waived its right to one. Upon review of the amended procedures submitted by Respondent, I find that Respondent has corrected four of the five identified inadequacies in Items 1, 2, 3, and 4 of the Notice. However, for the reasons discussed below, I find that Respondent still has not adequately addressed Item 5 of the Notice.

FINDING OF INADEQUATE PROCEDURES

The Notice alleged certain inadequacies in Respondent’s Operations and Maintenance (O&M) Manual and proposed requiring the City to amend its procedures to comply with the provisions of 49 C.F.R. Part 192. In its Response, the City submitted copies of its amended procedures, which the Director has reviewed. Accordingly, based on the results of such review, I find that

¹ The Notice was issued in conjunction with a separate Notice of Probable Violation (CPF No. 5-2016-0014). A Final Order in that case is being issued separately.

Respondent's original procedures for Items 1, 2, 3, and 4, as described in the Notice, were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies. Although the City also submitted amended procedures for Item 5 in its Response, these amended procedures still fail to address all of the inadequacies described in the Notice. Accordingly, I find that Respondent's procedures for Item 5 of the Notice are inadequate to assure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206, I find the following procedures to be inadequate:

Item 5: The Notice alleged that Respondent's procedures were inadequate to ensure safe operation of its pipeline facilities because they did not include a process to address the effectiveness of its public awareness program, as required by 49 C.F.R. § 192.616(c), which states:

§ 192.616(c) 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).

...

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Section 8.2 of API RP 1162 states, in relevant part:

8.2 ELEMENTS OF EVALUATION PLAN

A program evaluation plan should include the measures, means and frequency for tracking performance. The selected set of measures should reflect:

- Whether the program is effective—**program effectiveness**.

Section 8.4 and Appendix E.3 of API RP 1162 provide detailed guidance on how operators should measure the effectiveness of their public awareness programs.

The Notice alleged that Respondent's procedures did not have a process to address the effectiveness of its public awareness program. Specifically, the Notice alleged that Respondent's public awareness program did not have a written justification in its procedural manual for not performing the measurement of its effectiveness.

In its Response, the City acknowledged that it did not have a plan to measure the effectiveness of its public awareness program, as provided under API RP 1162, but that it had simply amended Section XXII of its Operations and Maintenance (O&M) Manual to include the following paragraph:

Because of the small size of the City of Coalinga gas system, and the simplicity of customer gas safety communication (bill inserts, customer handouts, and one-call system), it is not practicable to conduct baseline or supplemental studies of the effectiveness of the city's public awareness program. The baseline requirement is that the public works director assures that the bill inserts occur twice per year, as required.

Under 49 C.F.R. § 192.616(c), an operator must follow all of the general program recommendations contained in API RP 1162, or else provide a written justification in its program or procedural manual as to why compliance is not practicable and not necessary for safety. Upon review of the amendment to Section XXII of the City's O&M Manual, as quoted above, it is clear that Respondent has not met the requirements of § 192.616(c) because the amended procedure states only that "[b]ecause of the small size of the City of Coalinga gas system, and the simplicity of customer gas safety communication..." it is not practicable to conduct baseline or supplemental studies of the effectiveness of its public awareness program.

This amended language clearly suggests that the City's gas system is somehow so small that it is not practicable, to conduct any sort of self-assessment to evaluate the effectiveness of its public awareness efforts. This is presumably because of the cost of such a process would be too great for a small municipal gas system to bear. Even if we accept this rationale, the amended language does not address the other requirement for justifying a failure to follow the general program requirement in API RP 1162, namely, that such a program "*is not necessary for safety.*" The process of self-evaluation is an important part of any public awareness program and enables any operator, whether large or small, to review and evaluate the effectiveness of what it is doing to make its customers aware of the risks associated with gas distribution systems and how they can protect themselves in the event of an emergency. The City has failed to provide any rationale for why such a self-evaluation process is "not necessary for safety," no matter how small its system may be.

Accordingly, I find that Respondent's procedures are still inadequate to assure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206, the City is ordered to make the following changes to its procedures. Respondent must:

1. Revise its procedural manual to include a process for evaluating the effectiveness of its public awareness program or provide justification in its procedural manual as to why compliance with all or certain provisions of API RP 1162 is not practicable and not necessary for safety, pursuant to 49 C.F.R. § 192.616(c).
2. Submit the amended procedural manual to the Director within 30 days following receipt of this Order.

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 \$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.

Under 49 C.F.R. § 190.243, Respondent has a right to submit a Petition for Reconsideration of this Order Directing Amendment. The petition must be sent to: 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. PHMSA will accept petitions received no later than 20 days after receipt of service of this Order Directing Amendment by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Order Directing Amendment are effective upon service in accordance with 49 C.F.R. § 190.5.

May 31, 2017

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued