



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 22, 2017

Mr. C. Eric Ray
Airport Director
City of Victorville
18374 Phantom West
Victorville, CA 92394

CPF 5-2017-0016

Dear Mr. Ray:

On May 8 through 10, 2017, 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 the City of Victorville's distribution gas pipeline system's plans and records for operations and maintenance, and conducted a field evaluation of the pipeline systems in Victorville, California.

As a result of the inspection, it is alleged that the City of Victorville has committed six probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. §192.16 Customer notification.

(b) Each operator shall notify each customer once in writing of the following information:

(1) The operator does not maintain the customer's buried piping.

(2) If the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage.

(3) Buried gas piping should be—

(i) Periodically inspected for leaks;

(ii) Periodically inspected for corrosion if the piping is metallic; and

(iii) Repaired if any unsafe condition is discovered.

(4) When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand.

(5) The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.

The City of Victorville¹ did not notify its customers in writing of the following information, pursuant to 49 C.F.R. § 192.16(b): (1) The City of Victorville does not maintain the customer's buried piping; (2) If the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage; (3) Buried gas piping should be periodically inspected for leaks and corrosion if the piping is metallic and should be repaired if any unsafe condition is discovered; (4) When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand; and (5) The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping. At the time of inspection, the City of Victorville did not produce records² to demonstrate that it notified customers of the information listed above, in violation of 49 C.F.R. §192.16(b).³

2. §192.615 Emergency plans.

(c) Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials to:

(1) Learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency;

(2) Acquaint the officials with the operator's ability in responding to a gas pipeline emergency;

¹ The City of Victorville is an 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. 49 C.F.R. § 192.16(a).

² See 49 C.F.R. § 192.16(d) (requiring each operator to make a copy of the notice currently in use, and evidence that notices have been sent to customers within the previous 3 years available for inspection).

³ See Exhibit A to Violation Report (providing limited, insufficient information to City of Victorville customers).

- (3) Identify the types of gas pipeline emergencies of which the operator notifies the officials; and**
- (4) Plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property.**

The City of Victorville (City) did not establish and maintain liaison with appropriate fire, police, and other public officials pursuant to 49 C.F.R. §192.615(c). During the inspection, the Gas Distribution Coordinator for the City of Victorville stated to PHMSA that the City has an airport safety meeting, but this only addresses airport safety; pipeline safety is not addressed.⁴ Further, no records were available at the time of inspection to demonstrate that the operator had liaised with appropriate fire, police and other public officials in compliance with 49 C.F.R. §192.615(c).

3. §192.616 Public awareness.

- (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.**

The City of Victorville did not follow the general program recommendations of API RP 1162, nor did it provide a justification why compliance was not practicable and unnecessary for safety. At the time of the inspection, the City of Victorville's Public Awareness Manual did not have provisions for following the general program recommendations of API RP 1162 listed below:

- a) API RP 1162 Section 2.2.2 Local Public Officials
- b) API RP 1162 Section 2.2.3 Emergency Officials
- c) API RP 1162 Section 2.2.4 Excavators
- d) API RP 1162 Section 8 Program Evaluation

By failing to include and follow the baseline and supplemental requirements of API RP 1162 listed above, and not providing justification in its program or procedural manual as to why compliance with these sections was not practicable and not necessary for safety, the City of Victorville violated 49 C.F.R. § 192.616(c).

4. §192.619 Maximum allowable operating pressure: Steel or plastic pipelines.

- (a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under paragraph (c) or (d) of this section, or the lowest of the following:**

⁴ Violation Report at 14.

(1) The design pressure of the weakest element in the segment, determined in accordance with subparts C and D of this part. However, for steel pipe in pipelines being converted under §192.14 or uprated under subpart K of this part, if any variable necessary to determine the design pressure under the design formula (§192.105) is unknown, one of the following pressures is to be used as design pressure:

(i) Eighty percent of the first test pressure that produces yield under section N5 of Appendix N of ASME B31.8 (incorporated by reference, see §192.7), reduced by the appropriate factor in paragraph (a)(2)(ii) of this section; or

(ii) If the pipe is 123/4 inches (324 mm) or less in outside diameter and is not tested to yield under this paragraph, 200 p.s.i. (1379 kPa).

(2) The pressure obtained by dividing the pressure to which the segment was tested after construction as follows:

(i) For plastic pipe in all locations, the test pressure is divided by a factor of 1.5.

(ii) For steel pipe operated at 100 p.s.i. (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table:

Class location	Factors ¹ , segment—		
	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970)	Converted under §192.14
1	1.1	1.1	1.25
2	1.25	1.25	1.25
3	1.4	1.5	1.5
4	1.4	1.5	1.5

For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

(3) The highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column. This pressure restriction applies unless the segment was tested according to the requirements in paragraph (a)(2) of this section after the applicable date in the third column or the segment was uprated according to the requirements in subpart K of this part:

Pipeline segment	Pressure date	Test date
Onshore gathering line that first became subject to this part (other than §192.612) after April 13, 2006	March 15, 2006, or date line becomes subject to this part, whichever is later	5 years preceding applicable date in second column.
Onshore transmission line that was a gathering line not subject to this part before March 15, 2006		
Offshore gathering lines	July 1, 1976	July 1, 1971
All other pipelines	July 1, 1970	July 1, 1965

(4) The pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure.

(b) No person may operate a segment to which paragraph (a)(4) of this section is applicable, unless over-pressure protective devices are installed on the segment in a manner that will prevent the maximum allowable operating pressure from being exceeded, in accordance with §192.195.

(c) The requirements on pressure restrictions in this section do not apply in the following instance. An operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column of the table in paragraph (a)(3) of this section. An operator must still comply with §192.611.

(d) The operator of a pipeline segment of steel pipeline meeting the conditions prescribed in §192.620(b) may elect to operate the segment at a maximum allowable operating pressure determined under §192.620(a).

The City of Victorville did not determine the maximum allowable operating pressure of its gas distribution pipeline system.⁵ At the time of inspection, the pipeline was operating at 55 psig but there were no records or other substantiating evidence to demonstrate that the maximum allowable operating pressure was established for the pipeline system pursuant to 49 C.F.R. §192.619.

5. §192.227 Qualification of welders and welding operators.

(a) Except as provided in paragraph (b) of this section, each welder or welding operator must be qualified in accordance with section 6, section 12, or Appendix A of API Std 1104 (incorporated by reference, see §192.7), or section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, see §192.7). However, a welder or welding operator qualified under an earlier edition than the edition listed in §192.7 may weld but may not re-qualify under that earlier edition.

The City of Victorville could not demonstrate that the person who welded on several above-ground pipeline installations completed in 2016 was qualified in accordance with Section 6 of API 1104 or section IX of the ASME Boiler and Pressure Vessel Code (BPVC) pursuant to 49 C.F.R. § 192.227(a). Specifically, three (3) Regulator Stations (#10, #11 and #12) and one (1) meter set were installed in August 2016 which involved a welding process.⁶ At the time of the inspection, the City of Victorville provided a contractor OQ record to PHMSA that showed the expiration date of the qualification of the welder.⁷ However, the City of Victorville could not provide records that demonstrated that each welder or welding operator

⁵ The City of Victorville's O&M manual is also inadequate because it did not have a process for establishing MAOP required by 49 C.F.R. §192.619.

⁶ Exhibit B to Violation Report.

⁷ Exhibit C to Violation Report.

was qualified in accordance with Section 6, Section 12, or Appendix A of API Std 1104 or section IX of ASME BPVC.⁸

6. **§192.285 Plastic pipe: Qualifying persons to make joints.**
(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:
(1) Appropriate training or experience in the use of the procedure; and
(2) Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

The City of Victorville could not demonstrate that the persons who made joints by fusion on several underground plastic main and service pipelines completed in 2013-2016 were qualified under the applicable joining procedures pursuant to 49 C.F.R. § 192.285(a). The City of Victorville's joining procedure, section C-1, states in part:⁹

Individuals performing polyethylene pipe joining must be qualified in the procedure being utilized or directly observed by an individual that is qualified. Individuals must be requalified if during any 12-month period there are no fusions made or has 3 points or 3% of the joints made that are unacceptable.

Thirteen (13) service and five (5) main plastic pipelines ranging from 1-inch to 6-inch had been fused together from 2013 to 2017. Records or other substantiating evidence were not available at the time of inspection to demonstrate that the person who made the joints had been qualified in polyethylene plastic pipe fusion pursuant to 49 C.F.R. § 192.285(a).¹⁰

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a related series of violations.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to Items 1, 2, 3, and 4, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to the City of Victorville. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

⁸ See also API 1104 Section 6.8 Records.

⁹ Exhibit D to Violation Report.

¹⁰ See also 49 C.F.R. § 192.285(d) (requiring each operator to establish a method to determine that each person making joints in plastic pipelines in the operator's system is qualified in accordance with this section).

Warning Items

With respect to Items 5 and 6, 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. Be advised that failure to do so may result in the City of Victorville being subject to additional enforcement action.

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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2017-0016** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Kim West
Acting 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 M. Garcia (#156147)

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item 1 of the Notice pertaining to not notifying its customers in writing of the information required in §192.16(b), the City of Victorville must:
 - a) Revise its General Gas Service Information to include the information required in §192.16(b) and send that revised notification to all of its customers. Records and documentation showing compliance with this requirement must be submitted to PHMSA within 60 days after receipt of the Final Order.
 - b) Revise its procedure, Public Awareness And Damage Prevention to include a detailed process for notifying customers once in writing of the following information:
 - (1) The operator does not maintain the customer's buried piping.
 - (2) If the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage.
 - (3) Buried gas piping should be—
 - (i) Periodically inspected for leaks;
 - (ii) Periodically inspected for corrosion if the piping is metallic; and
 - (iii) Repaired if any unsafe condition is discovered.
 - (4) When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand.
 - (5) The operator (if applicable), plumbing contractors, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.The revised written procedure must be submitted to PHMSA within 60 days after receipt of the Final Order letter.
2. In regard to Item 2 of the Notice pertaining to not establishing and maintaining liaison with appropriate fire, police, and other public officials, the City of Victorville must conduct liaison with appropriate fire, police, and other public

officials to: (a) learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency; (b) acquaint the officials with the operator's ability in responding to a gas pipeline emergency; (c) identify the types of gas pipeline emergencies of which the operator notifies the officials; and (d) plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property. The City of Victorville must schedule a meeting with appropriate fire, police, and other public officials, and notify PHMSA in writing within 30 days of the scheduled liaison meeting so that PHMSA may attend the meeting in person. Records and documentation showing compliance with this requirement must be submitted to PHMSA within 180 days after receipt of the Final Order letter.

3. In regard to Item 3 of the Notice pertaining to not following the general program recommendations of API RP 1162, the City of Victorville must communicate to local public officials, emergency officials and excavators regarding the information required in API RP 1162 Section 2.2.2, Section 2.2.3 and Section 2.2.4. Records and documentation showing compliance with this requirement, including inclusion of the relevant API 1162 recommended practices in its written continuing public education program, must be submitted to PHMSA within 60 days after receipt of the Final Order letter.
4. In regard to Item 4 of the Notice pertaining to not determining the maximum allowable operating pressure of its gas distribution pipeline system, the City of Victorville must calculate and determine how the maximum allowable operating pressure was established for its pipeline system as per §192.619. Records and written procedure showing compliance with this requirement must be submitted to PHMSA within 60 days after receipt of the Final Order letter.
5. It is requested (not mandated) that City of Victorville maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Kim West, Acting Director, Western 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.