

November 14, 2019

Mr. Hugh Gallagher
President and Chief Executive Officer
AmeriGas Propane, Inc.
460 North Gulph Road
King of Prussia, Pennsylvania 19406

Re: CPF No. 5-2019-0016

Dear Mr. Gallagher:

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 your subsidiary, AmeriGas Propane, LP, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western Region, this enforcement action will be closed. Service of the Final Order by certified mail is effective upon the date of mailing, as 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: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Mr. David Hedrick, Pipeline Safety & Compliance Manager, AmeriGas Propane, LP

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 |) | |
| |) | |
| AmeriGas Propane, LP, |) | CPF No. 5-2019-0016 |
| a subsidiary of AmeriGas Partners, LP, |) | |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

From November 5 to November 16, 2018, 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 AmeriGas Propane, LP (AmeriGas or Respondent), in Maui, Kona, and Oahu, Hawaii. AmeriGas is a wholly-owned subsidiary of AmeriGas Partners, LP, with AmeriGas Propane, Inc., acting as the general partner and conducting operations management.¹ AmeriGas operates a propane distribution network in all states, and uses a number of interstate gas pipelines to transport propane.²

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated May 16, 2019, a Notice of Probable Violation and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that AmeriGas had committed six violations of 49 C.F.R. Part 192 and proposed ordering Respondent to take certain measures to correct the alleged violations. The warning item required no further action, but warned the operator to correct the probable violation or face possible future enforcement action.

AmeriGas responded to the Notice by email dated July 2, 2019 (Response). The company did not contest the allegations of violation and agreed to complete the proposed compliance actions. Respondent did not request a hearing and therefore has waived its right to one.

¹ AmeriGas Propane, Inc., website, *available at* https://s22.q4cdn.com/746525948/files/doc_financials/annuals/2018/FINAL-PDF-of-AmeriGas-Annual-Report-on-Form-10-K.pdf (last accessed October 16, 2019).

² *Id.*

FINDINGS OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 292.357(a), which states:

§ 192.357 Customer meters and regulators: Installation.

(a) Each meter and each regulator must be installed so as to minimize anticipated stresses upon the connecting piping and the meter.

The Notice alleged that Respondent violated 49 C.F.R. § 192.357(a) by failing to install customer meters so as to minimize anticipated stresses upon the connecting pipe and the meter. Specifically, the Notice alleged that AmeriGas had installed several customer meters that did not have proper supports, with several wall-mounted meters installed with no mounting brackets, as required by § 192.357(a) and AmeriGas' Operating and Maintenance (O&M) Manual.

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. § 192.357(a) by failing to install customer meters so as to minimize anticipated stresses upon the connecting pipe and the meter.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.455(a)(2), which states:

§ 192.455 External corrosion control: Buried or submerged pipelines installed after July 31, 1971.

(a) Except as provided in paragraphs (b), (c), (f), and (g) of this section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following:

(1)

(2) It must have a cathodic protection system designed to protect the pipeline in accordance with this subpart, installed and placed in operation within 1 year after completion of construction.

The Notice alleged that Respondent violated 49 C.F.R. § 192.455(a)(2) by failing to protect its buried pipeline with a cathodic protection (CP) system. Specifically, the Notice alleged that AmeriGas did not have records demonstrating that its propane distribution pipeline at Maui District, which was constructed after July 31, 1971, was protected with a CP system. AmeriGas did not install a CP system until 2018, and thus had no adequate CP system for the years 2016 and 2017.

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. § 192.455(a)(2) by failing to protect its buried pipeline with a CP system.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.481(c), which states:

§ 192.481 Atmospheric corrosion control: Monitoring.

(a) . . .

(c) If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by §192.479.

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(c) by failing to protect against atmospheric corrosion found during an inspection. Specifically, the Notice alleged that AmeriGas discovered active atmospheric corrosion on its Maui Coast Hotel system during an investigation conducted on January 8, 2018. Despite AmeriGas' discovery of the corrosion, at the time of the PHMSA inspection several above-ground pipelines and other pipeline components still showed severe atmospheric corrosion.

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(c) by failing to protect against atmospheric corrosion found during an inspection.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 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. 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 once 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.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow its written procedures for conducting operations and maintenance activities and for emergency response. Specifically, the Notice alleged that AmeriGas failed to comply with four sections of its O&M Manual.

First, the section of AmeriGas' O&M Manual titled "Emergency Plan" required the company to "participate in emergency response drills and deployment exercises with local emergency responders," among other requirements. Respondent stated that, instead of participating in drills, the company only conducted liaison meetings with local emergency responders and showed the responders AmeriGas' system.

Second, the section of AmeriGas' O&M Manual titled "Odorization of Gas" required the company to use one of three methods to ensure that a proper amount of odorant had been added. AmeriGas' Monthly Odorant Verification Tracking forms did not indicate whether one of the methods was used to verify a proper amount of odorant.

Third, the section of AmeriGas' O&M Manual titled "Abandonment of Facilities" required the company to follow specific steps to abandon existing service lines. During the PHMSA inspection, several existing service lines were discovered that had not been properly abandoned in accordance with AmeriGas' procedures.

Fourth, the section of AmeriGas' O&M Manual titled "Damage Prevention Program" required the company to take several actions during excavation of a pipeline, including to "exercise care and take all reasonable steps to avoid damage . . . to any buried lines or cables," and to prevent excavation damage by making a call to the State One Call center. During the PHMSA inspection, AmeriGas personnel observed a missing CP anode on a pipeline and immediately excavated the pipeline to install the missing component without following the procedures in the O&M Manual.

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. § 192.605(a) by failing to follow its written procedures for conducting operations and maintenance activities and for emergency response.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.707(a), which states:

§ 192.707 Line markers for mains and transmission lines.

(a) Buried pipelines. Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line:

- (1) At each crossing of a public road and railroad; and
- (2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

The Notice alleged that Respondent violated 49 C.F.R. § 192.707(a) by failing to place a line marker at each crossing of a public road and at several other locations necessary to reduce the possibility of damage to the pipeline. Specifically, the Notice alleged that AmeriGas failed to place a line marker at each crossing of a public road. Additionally, AmeriGas failed to place a line marker along each side of its above-ground pipelines in areas accessible to the public, as required by the company's O&M Manual.³

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(a) by failing to place a line marker at each crossing of a public road and at several other locations necessary to reduce the possibility of damage to the pipeline.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 192.723(b)(1), which states:

§ 192.723 Distribution systems: Leakage surveys.

(a)

³ Pipeline Safety Violation Report (on file with PHMSA), Exhibits Q and R.

(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.

The Notice alleged that Respondent violated 49 C.F.R. § 192.723(b)(1) by failing to conduct leakage surveys with leak detector equipment 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. Specifically, the Notice alleged that AmeriGas did not use combustible gas indicator equipment in the Maui District, a business district. The company only surveyed its above-ground gas pipeline components in the business district using a leak detector solution.

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. § 192.723(b)(1) by failing to conduct leakage surveys with leak detector equipment 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.

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 1, 2, 3, 4, 5, and 6 in the Notice for violations of 49 C.F.R. Part 192. 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 § 192.357(a) (**Item 1**), Respondent must:
 - a) Follow AmeriGas' O&M Manual - Meters, Service Regulators and Lines.
 - b) Inspect all gas meters located in Maui, Kona, and Oahu, Hawaii Districts for proper supports.
 - c) All gas meters that do not have proper support must be corrected and must have the proper mounting brackets or pipe supports. Mounting bracket that will be installed must not have a metal-to-metal contact with the gas meters.

- d) Create a list of the number of meters per customer in all Districts.
 - e) Revise inspection form(s) to indicate or to include a checkbox to show that meters have been inspected for proper support.
 - f) Remove the foreign corrugated plastic water line on top of the aboveground gas service pipe at the Imuha Mamalahoa Center or reroute the gas service pipe.
2. With respect to the violation of § 192.455(a)(2) (**Item 2**), Respondent must:
- a) Follow AmeriGas' O&M Manual - Corrosion Control.
 - b) Inspect the pipeline system in all Districts to create a list of each pipeline system to show if the system has steel risers, anode-less risers, underground polyethylene pipe or underground steel pipe.
 - c) Install cathodic protection systems on all underground steel pipe and steel risers.
 - d) Re-train and re-qualify all personnel or contractors who will be installing and testing cathodic protection systems.
3. With respect to the violation of § 192.481(c) (**Item 3**), Respondent must:
- a) Follow AmeriGas' O&M Manual - Corrosion Control.
 - b) Re-evaluate and inspect the pipeline system in all Districts for atmospheric corrosion.
 - c) Correct or apply protection to all pipeline systems and containers that have atmospheric corrosion.
 - d) Inspect all gas meters in all Districts that are in contact with the ground and correct any deficiencies. Gas meters must not contact the ground to ensure proper inspection of the bottom surface of the meters for atmospheric corrosion.
 - e) Replace all severely-corroded aboveground pipe and components at Maui Coast Hotel system and any other pipeline systems in the Districts that need replacement.
 - f) Re-train and re-qualify all personnel or contractors who will be inspecting, installing new pipe, applying new coats, and any other covered tasks for the corrective actions.
4. With respect to the violation of § 192.605(a) (**Item 4**), Respondent must:
- a) Follow AmeriGas' O&M Manual - Emergency Plan.
 - b) For all Districts, schedule and participate in emergency response drills and deployment exercises with the local emergency responders to establish unified incident command roles, operating procedures and preparedness for various emergency scenarios where appropriate.
 - c) Revise your Emergency Plan to include how often AmeriGas will participate or conduct actual emergency response drills and deployment exercises.
 - d) Follow AmeriGas' O&M Manual - Odorization of Gas, for testing of odorant level by using the testing methods and equipment described in Step 5 of the procedure.
 - e) Train and qualify all personnel on the use of the gas odorization testing methods set forth in AmeriGas' O&M Manual.
 - f) Revise the odor test inspection form to indicate the odor test method and equipment used, date of calibration, amount of odorant detected, etc.
 - g) Inspect the pipeline system in all Districts and document all inactive pipeline

- service and follow AmeriGas' O&M Manual - Abandonment of Facilities.
- h) Re-train and requalify all personnel that will be inspecting and abandoning inactive pipelines regarding AmeriGas' Abandonment of Facilities procedure.
 - i) Re-train and re-qualify all personnel regarding AmeriGas' Damage Prevention Program and procedures.
5. With respect to the violation of § 192.707(a) (**Item 5**), Respondent must:
- a) Follow AmeriGas' O&M Manual - Damage Prevention Program.
 - b) Inspect the pipeline system in all Districts and install pipeline markers where needed.
6. With respect to the violation of § 192.723(b)(1) (**Item 6**), Respondent must:
- a) Follow AmeriGas' O&M Manual - Leak Surveys.
 - b) Conduct leak surveys of all pipeline systems in the Maui district either by pressure test or by using leak survey instruments.
 - c) Train and qualify all personnel that will be conducting the leak survey using an instrument.

AmeriGas must complete the remediation work required by sections 1 through 6, above, within 180 days of the date of this Order and must submit records, updated forms, photographs, and any other documentation necessary to demonstrate compliance with the Order to the Director.

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.

It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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 ITEM

With respect to Item 7, the Notice alleged a probable violation of Part 192 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 192.747(a) (**Item 7**) — Respondent's alleged failure to check and service its valves on the Maui District pipeline system at intervals not exceeding 15 months, but at least once per calendar year.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

November 14, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued