



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 22, 2023

VIA ELECTRONIC MAIL TO: neelamshah@dow.com

Ms. Neelam Shah
President
UCAR Pipeline Incorporated
1000 County Road 340
Angleton, TX 77515

Re: CPF No. 4-2023-009-NOPV

Dear Ms. Shah:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken to comply with the pipeline safety regulations. When the terms of the compliance order are completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER MAYBERRY
Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2023.03.21
10:44:00 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosures (Final Order and NOPV)

cc: Mr. Bryan Lethcoe, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Cory Mattison, Senior Environmental Regulatory Specialist, The Dow Chemical
Company, clmattison@dow.com

CONFIRMATION OF 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

**UCAR Pipeline Incorporated,
a subsidiary of The Dow Chemical Company,**

Respondent.

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) **CPF No. 4-2023-009-NOPV**
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FINAL ORDER

On January 13, 2023, pursuant to 49 C.F.R. § 190.207, the Director, Southwest Region, Office of Pipeline Safety (OPS), issued a Notice of Probable Violation (Notice) to UCAR Pipeline Incorporated (Respondent). The Notice proposed finding that Respondent had violated a pipeline safety regulation in 49 C.F.R. Part 192. The Notice also proposed certain measures to correct the violation. Respondent did not contest the allegation of violation or corrective measures.

Based upon a review of all of the evidence, pursuant to § 190.213, I find Respondent violated the pipeline safety regulation listed below, as more fully described in the enclosed Notice, which is incorporated by reference:

49 C.F.R. § 192.616(c) **(Item 1)** — Respondent failed to conduct a program effectiveness evaluation every four years as required by Section 8.4 of API RP 1162 and its procedures.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

Compliance Actions

Pursuant to 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the actions proposed in the enclosed Notice to correct the violation. 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. Upon completion of the ordered actions, Respondent may request that the Director close the case. Failure to comply with this Order may result in the assessment of civil penalties under 49 C.F.R. § 190.223 or in referral to the Attorney General for appropriate relief in a district court of the United States.

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

ALAN KRAMER
MAYBERRY

Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2023.03.21
10:42:54 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

March 22, 2023

Date Issued



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

8701 S. Gessner, Suite 630
Houston TX 77074

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

VIA ELECTRONIC MAIL

January 13, 2023

Mr. Otto Parets
Executive/President
UCAR Pipeline Incorporated
1000 County Road 340
Angleton TX 77515

CPF 4-2023-009-NOPV

Dear Mr. Parets:

From March 21 through November 22, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected UCAR Pipeline Inc.'s (UCAR) gaseous ethylene system in Texas and Louisiana.

As a result of the inspection, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. § 192.616 Public Awareness

(a)

(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.



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UCAR failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 in accordance with § 192.616(c) and its procedures. Specifically, UCAR failed to conduct a program effectiveness evaluation every four years as required by Section 8.4 of API RP 1162 and its procedures.¹ While UCAR provided annual reviews from 2018 to 2021, section 8.4 of API RP 1162 and its procedures specifically require a program effectiveness evaluation every four years, in addition to annual reviews.

Therefore, UCAR failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 in accordance with § 192.616(c) and its procedures.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015, and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

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 Item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to UCAR Pipeline Incorporated. Please refer to the *Proposed Compliance Order*, which 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 Enforcement 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

¹ Pipeline Safety Violation Report, Exh. A-6, OME0-02 Public Awareness Program (Nov. 2, 2022) (on file with PHMSA), at 8.



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treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. § 552(b).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 4-2023-009-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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



U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

8701 S. Gessner, Suite 630
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PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to UCAR Pipeline Incorporated a Compliance Order incorporating the following remedial requirements to ensure the compliance of UCAR Pipeline Incorporated with the pipeline safety regulations:

- A. With regard to Item 1 of the Notice pertaining to UCAR's failure to conduct a program effectiveness evaluation, UCAR must conduct a program effectiveness evaluation and provide the evaluation to the Director, Southwest Region within **90** days of issuance of the Final Order.
- B. It is requested (not mandated) that UCAR Pipeline Incorporated maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, Director, Southwest 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.