

December 4, 2023

VIA ELECTRONIC MAIL TO: ray@norgasco.com

Raymond Latchem
President
Norgasco, Inc.
4341 B Street, Suite 306
Anchorage, Alaska 99503

Re: CPF No. 5-2023-016-NOPV

Dear Mr. Latchem:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one or more of the allegations of violation, makes other findings of violation and specifies actions that need to be taken by Norgasco, Inc., 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 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 K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Mr. Bret Bartholomy, Vice President of Operations, Norgasco, Inc., bret@norgasco.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

Norgasco, Inc.,

Respondent.

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CPF No. 5-2023-016-NOPV

FINAL ORDER

From May 7 through May 11, 2022, and September 27 through September 30, 2022, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected the facilities and records of Norgasco, Inc.'s (Norgasco or Respondent) natural gas distribution system in Deadhorse, Alaska. Respondent operates a natural gas distribution system serving approximately 160 industrial buildings in Deadhorse, Alaska.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated March 24, 2023, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Norgasco had committed five violations of 49 C.F.R. Part 192, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included an additional warning item pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violation or face possible future enforcement action.

Norgasco responded to the Notice by letter dated April 21, 2023 (Response). Respondent contested some of the allegations, offered additional information in response to the Notice, and requested that certain proposed compliance orders be withdrawn. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.513(c), which states:

¹ Norgasco, Inc. website, available at <http://www.norgasco.com/contact.html> (last accessed November 16, 2023).

§ 192.513 Test requirements for plastic pipelines.

(a) Each segment of a plastic pipeline must be tested in accordance with this section.

(b) The test procedure must insure discovery of all potentially hazardous leaks in the segment being tested.

(c) The test pressure must be at least 150% of the maximum operating pressure or 50 psi (345 kPa) gauge, whichever is greater. However, the maximum test pressure may not be more than 2.5 times the pressure determined under § 192.121 at a temperature not less than the pipe temperature during the test.

The Notice alleged that Respondent violated 49 C.F.R. § 192.513(c) by failing to pressure test three service lines to the required test pressure. Specifically, the Notice alleged that during the installation of three service lines, Norgasco pressure tested the service lines, including the fittings that were electro-fused to the mains, to the operating pressure (70 psig) and not to the required test pressure (140 psig). The following construction records of Norgasco work orders and pressure test reports were reviewed: (1) Sag River Road & Stallion pad dated “Fall 2020”; (2) Sag River Road & Worley AOH pad dated “Fall 2020”; and (3) Pathfinder Hanger 131 Carlile Pad on August 13, 2018. Each of these records showed that Norgasco pressure tested new service lines to 70 psig instead of at least 1.5 times the maximum operating pressure required by § 192.513(c) and Norgasco’s P-38 *Pressure Testing Distribution Mains and Service Lines* procedure.²

In its Response, Norgasco contested the allegation of violation and requested that it be withdrawn. Norgasco argued that the pipe used for those service lines was pressure tested to the required test pressure prior to installation when the pipe arrived in a spool from the vendor, and the Response provided records of the spool pressure tests. Norgasco suggested in its Response that the pressure tests conducted on the pipe spools prior to installation satisfied the requirements of § 192.513(c), and that the “inspectors mistook the leak-check at line pressure for a new distribution piping pressure test.”³ Norgasco asserted that pressure testing the service lines after installation in accordance with § 192.513(c) “is not practical or required.”⁴

Norgasco suggested that pressure testing new plastic pipe spools to 1.5 times the maximum operating pressure when it arrived from the vendor satisfied the plastic pipeline testing requirements in § 192.513(c). I disagree. Section 192.513(a) prescribes the test requirements for plastic pipelines to ensure discovery of all potentially hazardous leaks and requires “each segment of a plastic pipeline” to be tested.⁵ As defined in § 192.3, “pipeline” and “pipe” are not

² Norgasco stated that it only tested the service lines to 70 psig because of the risk of blowing off an electrofusion fitting on an operating line.

³ Response, at 1.

⁴ *Id.*

⁵ 49 C.F.R. § 192.513(a)-(b).

interchangeable in Part 192.⁶ Had PHMSA meant to limit pressure testing requirements under § 192.513 to spooled plastic “pipe,” it would have specifically done so. Instead, PHMSA applied § 192.513 testing requirements to the more expansive definition of “pipeline,” which includes not only the spooled plastic pipe, but all other facilities through which gas moves in that segment of pipeline.⁷

Additionally, PHMSA reviewed Norgasco’s P-38 *Pressure Testing Distribution Mains and Service Lines* procedure. Respondent’s procedure required the leak and pressure testing of service lines to be conducted after the pipe has been laid in the trench and before final tie to the gas-filled section, at a test pressure of 140 psig.⁸ Norgasco failed to follow its procedure by pressuring testing spooled pipe prior to being laid in the trench. Norgasco also failed to pressure test the distribution lines, once laid and before final tie to the gas-filled section, to 140 psig as required by its procedure.

Prior to installation, Norgasco tested spooled pipe to at least 150 percent of the maximum operating pressure. However, once installed, Norgasco tested the leak integrity of the service lines to the operating pressure of 70 psig and not the test pressure required by § 192.513(c) and its procedure.⁹

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.513(c) by failing to pressure test three segments of plastic pipeline to at least 150 percent of the maximum operating pressure.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.625(a), which states:

§ 192.625 Odorization of gas.

(a) A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the

⁶ See 49 C.F.R. § 192.3 (defining “pipe” as “any pipe or tubing used in the transportation of gas, including pipe-type holders; and “pipeline” as “all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.”).

⁷ See e.g., 49 C.F.R. § 192.285(c) (prescribing requalification for any person qualified under this section “after any production joint is found unacceptable by testing under § 192.513.”) (emphasis added). See also Gas Piping Technology Committee (GPTC) ANSI/GPTC Z380.1, *Guide for Gas Transmission, Distribution, and Gathering Piping Systems* [hereinafter *GPTC Guide*], Subpart J Test Requirements, discussing that the “joints in the plastic piping should be set, cured, or hardened before the test [under § 192.513] is initiated.” The *GPTC Guide* is not incorporated by reference in part 192, but PHMSA has referenced it in guidance and considered GPTC proposals in developing the Part 192 requirements under § 192.513. See e.g., Regulatory Review: Administrative Practices, Reporting Pipeline Incidents, Gas Pipeline Standards, and Liquefied Natural Gas Facilities Standards, 57 Fed. Reg. 53015, 53087 (Nov. 6, 1992) (codified at 49 C.F.R. pt. 192). These uses exemplify the intent of § 192.513 to apply “pipeline” in its more expansive definition that includes all physical facilities attached to the pipe.

⁸ Pipeline Safety Violation Report (Violation Report), (March 16, 2023) (on file with PHMSA), at Exh. B-2, at Page 1.

⁹ The regulatory test pressure is at least 135 psig (150 percent of Norgasco’s maximum allowable operating pressure of 90 psig). The required test pressure in accordance with Norgasco’s procedure is 140 psig.

lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

The Notice alleged that Respondent violated 49 C.F.R. § 192.625(a) by failing to odorize the distribution line between Skid 1 (located approximately two miles north of Deadhorse, Alaska) and Skid 2 in Deadhorse, Alaska.

In its Response, Norgasco acknowledged that it treated the subject pipeline as a distribution line but stated that it believed PHMSA was reviewing Norgasco's justification for the alleged violation based on a previous inspection in 2019. Norgasco asserted in its Response that it did not see the need to odorize the distribution line between Skid 1 and Skid 2 and requested further discussion with PHMSA regarding changing the designation from distribution line to transmission line.

Section 192.625(a) requires odorization of a combustible gas in a distribution line. Norgasco failed to odorize its natural gas distribution pipeline operating between Skid 1 and Skid 2 as required by § 192.625(a). Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.625(a) by failing to odorize a distribution line in its pipeline system.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.743(a), which states:

§ 192.743 Pressure limiting and regulating stations: Capacity of relief devices.

(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in § 192.739(b), the capacity must be consistent with the pressure limits of § 192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

The Notice alleged that Respondent violated 49 C.F.R. § 192.743(a) by failing to conduct a review of its pressure relief device capacities for the pressure safety valves (PSVs) at Skid 1 and Skid 2 regulating stations each calendar year, at intervals not exceeding 15 months. Specifically, Norgasco was unable to provide PSV capacity calculations for the Skid 1 and Skid 2 regulating stations upon request.

In its Response, Norgasco explained that it was unable to locate the PSV capacity calculations at the time of the inspection but had since located those records. Norgasco provided records of capacity calculations for Skid 1 and Skid 2 relief devices completed in 2018. Respondent provided further information explaining that it was unaware of the annual capacity determinations required by § 192.743(a). Norgasco provided a current review of the capacity calculations for the relief devices protecting Skid 1 and Skid 2 regulating stations, except for the Hilcorp PSV that protects Norgasco's pipeline from the Hilcorp Flow Station 1 tie-in to Skid 1. Norgasco stated that it would ensure capacity determinations were conducted annually moving forward.

Based on its Response and the records and additional information provided by Norgasco, Skid 1 and Skid 2 pressure relief device capacity determinations were conducted in 2018, and then again in 2023, with an approximate five-year gap between reviews. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.743(a) by failing to determine the capacity of relief devices protecting Skid 1 and Skid 2 regulating stations 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.

WITHDRAWAL OF ALLEGATIONS

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.625(f), which states:

§ 192.625 Odorization of gas.

(a)

(f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. Operators of master meter systems may comply with this requirement by –

(1) Receiving written verification from their gas source that the gas has the proper concentration of odorant; and

(2) Conducting periodic “sniff” tests at the extremities of the system to confirm that the gas contains odorant.

The Notice alleged that Respondent violated 49 C.F.R. § 192.625(f) by failing to follow the manufacturer’s instructions while using the Heath Consultants Odorator Model #1, resulting in an inaccurate odorant level reading. Specifically, during an odorant test observed by PHMSA inspectors, Norgasco did not remove the Heath Consultants Odorator from the carrying case while conducting the test. The Notice alleged that the carrying case, with foam interior padding, was not supplied by the manufacturer and was used by Norgasco to protect the instrument from fall damage and to keep it from freezing. The user manual for the odorator, page IV states: “WARNING: . . . DO NOT OBSTRUCT OR BLOCK THE INTAKE OR EXHAUST PORT.”¹⁰ A PHMSA inspector contacted the manufacturer and confirmed that the odorator should be removed from the case prior to conducting a “sniff” test.

In its Response, Norgasco clarified that the carrying case was supplied by the manufacturer and provided a picture of the odorator in the carrying case with the label “HeathTech.”¹¹ Norgasco

¹⁰ Violation Report, at Exh. D-2, at Page IV.

¹¹ Response, at 19.

argued that the odorator is only required to be removed from the carrying case during calibration and provided a copy of the relevant pages of the odorator instruction manual. However, Norgasco agreed to follow the proposed compliance terms based on the communication between PHMSA and the odorator manufacturer confirming that the odorator should be removed from its carrying case prior to use and provided additional information in its Response describing actions taken to require the odorator to be removed from its case prior to use, including revisions to Norgasco's odorator procedure.

The odorator user manual excerpts provided by Norgasco in its Response do not resemble the user manual included as an exhibit in the Violation Report.¹² The user manual excerpts provided by Norgasco indicate that during calibration, the odorator intake and exhaust ports should not be blocked. The warning not to block the intake or exhaust port in the user manual included as an exhibit in the Violation Report is a general warning not specifically associated with calibration requirements. PHMSA reviewed the revision to Norgasco's odorator procedure, which now requires the odorator to be removed from the carrying case before use. Norgasco provided a picture of the odorator carrying case with an updated label with the instruction to remove the odorator from its case prior to use.¹³

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended withdrawing the alleged violation of § 192.625(f). Based on Norgasco's Response and the provided updated procedure that includes removing the odorator prior to conducting a "sniff" test, I find Respondent is not in violation of § 192.625(f). Accordingly, after considering all of the evidence, Item 4 and the corresponding compliance item are hereby withdrawn.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 192.807(a), which states:

§ 192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

- (a) Qualification records shall include:
 - (1) Identification of qualified individual(s);
 - (2) Identification of the covered tasks the individual is qualified to perform;
 - (3) Date(s) of current qualification; and
 - (4) Qualification method(s).

The Notice alleged that Respondent violated 49 C.F.R. § 192.807(a) by failing to maintain qualification records for each operator-qualified employee. Specifically, the existing training records did not document the qualification method (e.g., exam) in accordance with § 192.807(a)(4).

¹² Compare Violation Report, at Exh. D-2, at Page IV with Response, at 20 – 22.

¹³ Response, at 23.

In its Response, Norgasco provided additional information explaining that it uses EnergyU training from Midwest Energy Association for operator qualification and training and provided records of each operator's training log with successfully completed exams.

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended withdrawing the alleged violation of § 192.807(a). Based on the foregoing, I find that Respondent is not in violation of § 192.807(a). Accordingly, after considering all of the evidence, Item 6 and the corresponding compliance item are hereby withdrawn.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 2, 3, and 5 in the Notice for violations of 49 C.F.R. §§ 192.513(c), 192.625(a), and 192.743(a), respectively. 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.

As discussed above, Items 4 and 6 have been withdrawn. Therefore, the compliance terms proposed in the Notice for those Items are not included in this Final Order.

With regard to the violation of § 192.513(c) (Item 2), Respondent argued the compliance terms should be withdrawn. In its Response, Norgasco argued it was in compliance and did not provide a separate argument for withdrawal or modification of the Compliance Order. For the reasons described above, the allegations of violation have not been withdrawn. Consequently, the Compliance Order for this Item is not withdrawn or modified.¹⁴

With regard to the violation of § 192.625(a) (Item 3), Respondent argued that odorization between Skid 1 and Skid 2 is not required and proposed changing the designation of the service line from distribution line to transmission line in order to come into compliance. Since the Proposed Compliance Order only requires Norgasco to submit a compliance plan to PHMSA for review and approval, I find that withdrawing or modifying the proposed compliance terms based on Respondent's argument is not warranted.

With regard to the violation of § 192.743(a) (Item 5), Respondent did not contest the Proposed Compliance Order. In its Response, Norgasco provided pressure relief device capacity calculations for Skid 1 and Skid 2 regulating stations dated October 10, 2018. Norgasco provided additional information that included capacity calculation reviews for Skid 1 and Skid 2 regulating stations dated June 19, 2023. The capacity calculations provided by Norgasco did not include the pressure relief device at the Hilcorp Flow Station 1 tie-in to Skid 1. Based on the foregoing, I find that withdrawing or modifying the proposed compliance terms at this time is not warranted.

¹⁴ With its Response, Norgasco provided additional information, agreeing to take the corrective actions detailed in the Proposed Compliance Order, describing the intended procedure for conducting the testing, and requesting PHMSA approval.

For the above reasons, the Compliance Order is modified as set forth below.

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 § 192.513(c) (**Item 2**), Respondent must, within **365** days of receipt of the Final Order, pressure test to 140 psig the three electrofusion fittings that were previously pressure tested to 70 psig, at Sag River Road and Stallion pad, Sag River Road and Worley AOH pad, and Pathfinder hanger 131 Carlile pad. Norgasco must also pressure test the three service lines associated with these three pads to 140 psig within **365** days of receipt of the Final Order. Additionally, Norgasco must notify PHMSA **30** days prior to conducting the pressure tests and submit documentation of completion of pressure testing to the Director within **365** days of receipt of the Final Order.
2. With respect to the violation of § 192.625(a) (**Item 3**), Respondent must submit a compliance plan to the Director for review and approval within **120** days of receipt of the Final Order.
3. With respect to the violation of § 192.743(a) (**Item 5**), Respondent must submit to the Director documentation demonstrating that pressure relief devices at pressure limiting stations and pressure regulating stations have sufficient capacity to protect the facilities to which they are connected within **120** days of receipt of the Final 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.

PHMSA requests 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 (*see* 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 1, the Notice alleged probable violation of Part 192, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 192.285(a) (**Item 1**) — Respondent’s alleged failure that allowed a Norgasco employee to make multiple plastic piping joints on a main line distribution pipeline without being qualified under the applicable joining procedure.

Norgasco requested withdrawal of Item 1 because the employee in question was a full-time staff engineer with a Bachelor of Science degree in mechanical engineering and was trained in high-density polyethylene (HDPE) fusion. In its Response, Norgasco provided additional information that the employee’s training was documented in its Daily Journal. Under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred. 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. The written petition must be received no later than 20 days after receipt of the 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.

December 4, 2023

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued