

VIA E-MAIL TO: AGUILARCOMAYOR@GMAIL.COM

July 23, 2024

Donald Gonzales
Mayor
Town of Aguilar
101 W. Main St.
PO Box 538
Aguilar CO, 81020

CPF 5-2024-028-NOPSO

Dear Mayor Gonzales:

Enclosed is a Notice of Proposed Safety Order (Notice) issued in the above-referenced case. The Notice proposes that you take certain measures with respect to your natural gas distribution system in Aguilar, Colorado to ensure pipeline safety.¹ Your options for responding are set forth in the Notice. Your receipt of the Notice constitutes service of that document under 49 C.F.R. § 190.5.

We look forward to a successful resolution to ensure pipeline safety. Please direct any questions on this matter to me at 720-963-3160.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosure: Notice of Proposed Safety Order

¹ The OPID for this asset is: 81 (Town of Aguilar).

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WESTERN REGION
LAKEWOOD, CO 80228**

_____)	
In the Matter of)	
)	
Town of Aguilar,)	CPF No. 5-2024-028-NOPSO
)	
Respondent)	
_____)	

NOTICE OF PROPOSED SAFETY ORDER

Background and Purpose

Pursuant to Chapter 601 of title 49, United States Code, the Colorado Public Utilities Commission (COPUC) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) have initiated an on-site inspection and information review of the safety of Town of Aguilar's (TOA) natural gas distribution system in Aguilar, Colorado.

As a result of the on-site inspection and information review, it appears that conditions exist on your pipeline facilities that pose a pipeline integrity risk to public safety, property or the environment. Specifically, TOA failed to maintain records to indicate appropriate odorization of its combustible gases past September 2022. It is therefore unclear whether the combustible gas in TOA's distribution lines is properly odorized, as required by § 192.625(a). Additionally, TOA failed to provide written procedures in response to a gas line emergency, as required by § 192.615(a). Consequently, TOA failed to train the appropriate operating personnel on emergency procedures and verify that the training was effective, as required by § 192.615(b)(2). Pursuant to 49 U.S.C. § 60117(l), PHMSA issues this Notice of Proposed Safety Order, notifying you of the preliminary findings of the investigation, and proposing that you take measures to ensure that the public, property, and the environment are protected from the potential risk.

Preliminary Findings

- From July 18, 2023, to October 26, 2023, representatives of the Colorado Public Utilities Commission (COPUC), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected TOA's natural gas distribution system in Aguilar, Colorado. The natural gas distribution system is composed of 8.25 miles of coated steel and PE mains and 272

services. 7.25 miles of mains have diameters of 2” or less and 1 mile of mains have diameters of over 2” thru 4”. All services have a diameter of 1” or less.²

- 49 C.F.R. § 192.625(a) states 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 lower explosive limit, the gas is readily detectable by a person with a normal sense of smell. Additionally, to ensure the proper concentration of odorant, § 192.625(f) requires each operator to 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. Although TOA provided some gas odorization test records and monthly odorant readings from 2021 and 2022, it is unclear at this time if the combustible gas in TOA’s distribution lines is properly odorized as TOA failed to maintain records to indicate appropriate odorization of its combustible gases past September 2022.
- Approximately 8 miles of TOA’s mains were installed from 1960-1969. Approximately 0.25 miles of main and 234 services were installed from 1990-1999. The remaining 38 services have been installed since 2020. Older pipelines have integrity issues due to the manufacturing process, aging coatings that can have coating disbondment, shielding of cathodic protection, and cathodic protection levels at less than 49 C.F.R. § 192.463 requirements. Without adequate odorization of natural gas, integrity issues leading to leaks could remain undetected. This would impair the serviceability or integrity of the pipelines leading to an increased threat of failure.
- 49 C.F.R. § 192.615(a) states each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency and § 192.615(b)(2) states each operator shall train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective. During the inspection, TOA failed to provide written procedures in response to a gas line emergency. Therefore, TOA failed to train the appropriate operating personnel on emergency procedures and verify that the training was effective, as required by § 192.615(b)(2). Furthermore, TOA did not have an operator qualified personnel to perform any operations and maintenance tasks. TOA indicated the town has not had a gas employee since August 2022. Without operating personnel possessing the requisite operator qualifications to perform operations and maintenance tasks, or adequate emergency response training, the consequence of any failure is greatly magnified.
- TOA is unable to demonstrate if the combustible gas in TOA’s distribution lines is properly odorized. Unodorized gas poses an immediate threat to public safety and the environment. Without odorization, natural gas leaks cannot be easily detected by smell. This increases the likelihood that leaks could go unnoticed, leading to potentially catastrophic consequences such as explosions or fires. TOA must immediately conduct the required testing to verify odorant levels meet the requirements of § 192.625(a) to ensure the safety of the pipelines.

² 2022 Annual Report

Proposed Issuance of Safety Order

Section 60117(l) of Title 49, United States Code, provides for the issuance of a safety order, after reasonable notice and the opportunity for a hearing, requiring corrective measures, which may include physical inspection, testing, repair, or other action, as appropriate. The basis for making the determination that a pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment is set forth both in the above-referenced statute and 49 C.F.R. § 190.239, a copy of which is enclosed.

After evaluating the foregoing preliminary findings of fact and considering the age of the pipe involved, the manufacturer, the hazardous nature of the product transported and the pressure required for transporting such product, the characteristics of the geographical areas where the pipeline facility is located, and the likelihood that the conditions could worsen or develop on other areas of the pipeline and potentially impact its serviceability, it appears that the continued operation of the affected pipeline without corrective measures would pose a pipeline integrity risk to public safety, property, or the environment.

Accordingly, PHMSA issues this Notice of Proposed Safety Order to notify Respondent of the proposed issuance of a safety order and to propose that Respondent take measures specified herein to address the potential risk.

Response to this Notice

In accordance with § 190.239, you have 30 days following receipt of this Notice to submit a written response to the official who issued the Notice. If you do not respond within 30 days, this constitutes a waiver of your right to contest 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 Safety Order. In your response, you may notify that official that you intend to comply with the terms of the Notice as proposed, or you may request that an informal consultation be scheduled (you will also have the opportunity to request an administrative hearing before a safety order is issued). Informal consultation provides you with the opportunity to explain the circumstances associated with the risk condition(s) alleged in the notice and, as appropriate, to present a proposal for a work plan or other remedial measures, without prejudice to your position in any subsequent hearing. If you and PHMSA agree within 30 days of informal consultation on a plan and schedule for you to address each identified risk condition, we may enter into a written consent agreement (PHMSA would then issue an administrative consent order incorporating the terms of the agreement). If a consent agreement is not reached, or if you have elected not to request informal consultation, you may request an administrative hearing in writing within 30 days following receipt of the Notice or within 10 days following the conclusion of an informal consultation that did not result in a consent agreement, as applicable. Following a hearing, if the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to the public, property, or the environment in accordance with § 190.239, the Associate Administrator may issue a safety order.

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).

In your correspondence on this matter, please refer to **CPF 5-2024-028-NOPSO** and for each document you submit, please provide a copy in electronic format whenever possible.

Proposed Corrective Measures

Pursuant to 49 U.S.C. § 60117(l) and 49 C.F.R. § 190.239, PHMSA proposes to issue to TOA a safety order incorporating the following remedial requirements with respect to the affected pipeline:

1. TOA must conduct the required testing to verify odorant levels meet the requirements of § 192.625(a) to ensure the safety of the pipelines. The testing must be conducted by an operator qualified personnel possessing the requisite operator qualifications as required by § 192.805(b).
2. TOA must establish written procedures to minimize the hazard resulting from a gas pipeline emergency as required by § 192.615(a) and to train appropriate operating personnel on emergency procedures specific to TOA's distribution system including but not limited to the location and operation of emergency valves as required by § 192.615(b)(2).
3. TOA must conduct a leakage survey on all distribution lines according to § 192.723 to ensure the safety of the pipelines. In instances where leaks are discovered, Grade 1 leaks must be repaired or replaced/renewed immediately, Grade 2 leaks must be repaired or replaced/renewed within 1 year. Grade 3 leaks must be repaired or replaced/renewed within 2 years.
4. TOA must conduct a cathodic protection survey on all distribution lines according to § 192.465 to ensure the safety of the pipelines. In instances where inadequate potentials are a result of an electrical short to an adjacent foreign structure, a rectifier malfunction, an interruption of power source, or an interruption of CP current due to other non-systemic or location-specific causes, TOA must document and repair these instances.
5. TOA must take temporary pressure restrictions on TOA's distribution lines. TOA must take a 20% reduction in operating pressure using the pipeline's operating pressure. If TOA believes it cannot meet this requirement because it needs to maintain minimum flows to meet customer demands, it must immediately notify PHMSA and request approval, explaining the reason(s) why temporarily reducing pressure pursuant to the requirements set forth above is infeasible. In its written proposal to PHMSA, TOA must propose an alternative means to assure pipeline safety.

Once TOA has completed corrective measures 1 and 3, TOA must notify the Director in writing and may request that the pressure restriction(s) be lifted.

6. Within 30 days after a safety order is issued, develop and submit to the Director for approval a written remedial work plan that includes corrective measures. The work plan must include:
 - (A) The performance of additional field testing, inspections, and evaluations to determine whether and to what extent the conditions described in this Notice are present elsewhere on the affected pipeline system. Make the results of the inspections, field excavations, and evaluations available to PHMSA or its representative;
 - (B) The performance of repairs or other corrective measures that fully remediate the identified risk conditions. Include provisions for continuing long-term periodic testing and integrity verification measures to ensure the ongoing safe operation of the pipeline considering the results of the analyses, inspections, and corrective measures undertaken pursuant to the safety order; and
 - (C) A proposed schedule for completion of the actions required by paragraphs (A) and (B) of this Item.
7. Revise the remedial work plan as necessary to incorporate new information obtained during the evaluations and associated remedial activities. Submit any such plan revisions to the Director for prior approval. The Director may approve plan elements incrementally. The remedial work plan shall become incorporated into the safety order.
8. Implement the work plan as it is approved by the Director, including any revisions to the plan.
9. Submit quarterly reports to the Director that: (1) include available data and results of the testing and evaluations required by the safety order; and (2) describe the progress of the repairs and other remedial actions being undertaken.
10. The Director may grant an extension of time for compliance with any of the terms of the safety order upon a written request timely submitted demonstrating good cause for an extension.
11. Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.
12. It is requested (not mandated) that TOA maintain documentation of the safety improvement costs associated with fulfilling this Safety Order and submit the total to Dustin Hubbard, 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.

The actions proposed by this Notice of Proposed Safety Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under 49 C.F.R. Parts 190 through 199, under any other order issued to Respondent under authority of 49 U.S.C. § 60101 et seq., or under any other provision of Federal or state law.

After receiving and analyzing additional data in the course of this proceeding and implementation of the work plan, PHMSA may identify other safety measures that need to be taken. In that event, Respondent will be notified of any proposed additional measures and, if necessary, amendments to the work plan or safety order.

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Date issued

cc: PHP-60 Compliance Registry
PHP-500 J. Luo, J. Berry (#24-311812)
Tyra Avila, Town Administrator - aguilartownclerk@gmail.com
Sara Porras, Deputy Clerk - aguilardeputyclerk@gmail.com
Stephanie Coca, Assistant Administrator - aguilarassist@gmail.com
Casey Hensley, COPUC Program Manager - Casey.Hensley@state.co.us