



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

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

OVERNIGHT EXPRESS DELIVERY

October 7, 2021

Mr. Ramon Harris
Vice President
National Fuel Gas Supply Corporation
6363 Main Street
Williamsville, NY 14221

CPF 1-2021-057-NOPV

Dear Mr. Harris:

From March 23, 2020 to May 27, 2021, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the New York Department of Public Service (NY DPS), acting as interstate agent of PHMSA, pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected National Fuel Gas Supply Corporation's (NFG) procedures, records, and facilities at multiple locations in Pennsylvania and New York.

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

1. **§ 192.167 Compressor stations: Emergency shutdown.**
 - (a) **Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:**
 - (1) ...
 - (4) **It must be operable from at least two locations, each of which is:**
 - (i) **Outside the gas area of the station;**
 - (ii) **Near the exit gates, if the station is fenced, or near emergency**

exits, if not fenced; and,

(iii) Not more than 500 feet (153 meters) from the limits of the station.

NFG failed to install an emergency shutdown system for its attended compressor station that is operable from at least two locations outside the gas area of the station, near the exit gates of the fenced station, and not more than 500 feet from the limits of the station in violation of § 192.167(a)(4).

On 11/10/2020 and 12/8/2020, NY DPS inspected NFG's Porterville Compressor Station. The inspectors noted that the compressor station is permanent, attended, 400 horsepower (HP),¹ and has emergency shutdown devices (ESDs) to trigger the emergency shutdown system operable from two locations immediately outside the two exits of the compressor station building (approximately ten feet from the station) and one in the control room. The inspectors also noted that although the compressor station was fenced, no active ESDs were located near the fence exit gates pursuant to § 192.167(a)(4)(ii).²

2. § 192.745 Valve maintenance: Transmission lines.

(a) Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

NFG failed to inspect and partially operate a transmission line valve that might be required during an emergency at intervals not to exceed 15 months, but at least once each calendar year in violation of § 192.745(a).

During the inspection, NY DPS reviewed the list of transmission valves, segmented by applicable pipeline and/or storage field Unit from June 2015-June 2020. The inspectors noted that Valve *BNE0 727 A*, a transmission line valve that might be required during an emergency, was inspected on 5/16/17 and not again until 8/29/18.³ This exceeded the 15-month maximum inspection interval by approximately two weeks.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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

¹ Although the Porterville Compressor Station is less than 1000 HP, the station is attended and permanently installed, and therefore is not considered a field compressor station exempt from the requirements of § 192.167(a).

² See PHMSA Violation Report at Exhibit A (depicting photographs of the fenced area of the compressor station without ESD trigger points).

³ See *id.* at Exhibit B.

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 National Fuel Gas Supply Corporation. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to Item 2, 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 this item. Failure to do so may result in additional enforcement action.

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 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 1-2021-057-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Burrough".

Robert Burrough
Director, Eastern Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice, NFG shall install emergency shutdown system activation points near the exit gates of the Porterville Compressor Station, in accordance with the requirements of § 192.167(a)(4)(ii) and provide documentation to Robert Burrough, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, within 120 days of receipt of the Final Order.

- B. It is requested (not mandated) that NFG maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern 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.