



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

820 Bear Tavern Road, Suite 103  
West Trenton, NJ 08628  
**609.989.2171**

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

### **OVERNIGHT EXPRESS DELIVERY**

May, 27, 2015

Ms. Cathy Conlow  
City Manager, Bangor, ME  
Bangor City Hall  
73 Harlow Street  
Bangor, ME 04401

**CPF 1-2015-6001**

Dear Ms. Conlow:

From August 19 – 21, 2014, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected the City of Bangor's Airport Feeder Line pipeline facilities and procedures in Bangor, Maine.

During this inspection, deficiencies were identified which were related to findings from Bangor's August 2010 inspection. In November 2010, PHMSA issued a Warning Letter, CPF 120106001W, based on findings identified during the August 2010 inspection of the City of Bangor's pipeline facilities and procedures. This Warning Letter cited the City of Bangor for not having a procedural manual for operations, maintenance, and emergencies as prescribed in 49 Code of Federal Regulations (CFR) §195.402, not having an Operator Qualification (OQ) program in accordance with 49 CFR §195.505, and not having an integrity management program that complies with the requirements prescribed in §195.452. This Warning Letter stated that the City of Bangor's jurisdictional pipeline is required to comply with 49 CFR §195 in its entirety, as well as any referenced requirements within 49 CFR §195.

As a result of this most recent inspection, it appears that the City of Bangor has not fully corrected these earlier identified deficiencies. In addition, it appears that the City of Bangor has committed additional probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

**1. §195.402 Procedural manual for operations, maintenance, and emergencies.**

**(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the**

**manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted. . . .**

The City of Bangor failed to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies for the PHMSA jurisdictional pipeline facilities that includes all the provisions annotated in §195.402.

A representative for the City of Bangor stated, during the inspection, that they had begun to prepare an Operations & Maintenance (O&M) manual for use in conjunction with the “Fuel Dept. Operating Manual” (Standard Operating Procedures), and provided a copy of the O&M manual titled, “Bangor International Airport Pipeline Operations and Maintenance Manual.” The documentation provided during the inspection does not meet all of the requirements specified in §195.402 for all operations and maintenance activities, handling abnormal operations and emergencies. In addition, the City of Bangor did not have procedures or records for reviewing this manual at intervals not exceeding 15 months, but at least once each calendar year.

## **2. §195.404 Maps and records.**

**(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information; . . .**

**(3) The maximum operating pressure of each pipeline.**

The City of Bangor failed to maintain detailed records to demonstrate that the maximum operating pressure (MOP) of its jurisdictional pipeline segments were determined in accordance with §195.406(a).

At the time of the inspection, the City of Bangor lacked information on how the City of Bangor established the MOP on the City of Bangor Airport Feeder Line. As a follow-up to this inspection, the PHMSA inspector requested that the City of Bangor provide any additional documentation that they may have related to establishment of the pipeline’s MOP, and provide this information, along with the documented process for how their MOP was established. The City of Bangor provided subsequent emails dated September 22, 2014, September 26, 2014, and October 8, 2014 explaining how they had established “Maximum Allowable Operating Pressure.” Neither the information provided during the inspection, nor the subsequent e-mails, included sufficient records necessary to validate the MOP per 195.406(a), which requires not only consideration of the internal design pressure of the pipe and design pressure of any other components, but also pressure testing and operating pressure.

## **3. §195.452 Pipeline integrity management in high consequence areas.**

**(a) Which pipelines are covered by this section? This section applies to each hazardous liquid pipeline that could affect a high consequence area, including any pipeline located in a high consequence area unless the operator effectively demonstrates by risk assessment that the pipeline could not affect the area. (Appendix C of this part provides guidance on determining if a pipeline could affect a high consequence area.) Covered pipeline are categorized as follows:**

The City of Bangor failed to prepare and follow a written integrity management program in accordance with §195.452 for their pipeline facilities that could affect a high consequence area (HCA).

The City of Bangor Airport Feeder Line pipeline facilities are Category 2 HCA pipelines and are required to have an integrity management program. The City of Bangor provided a one page document titled, “Pipeline Integrity Management Program 49 CFR 195.452”, written 20 December 2010. The City of Bangor’s documentation lacked the required elements of an integrity management program, to include having and carrying out a baseline assessment plan.

**4. § 195.505 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) Identify covered tasks;
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;
- (c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;
- (d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in Part 195;
- (e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;
- (f) Communicate changes that affect covered tasks to individuals performing those covered tasks;
- (g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed;
- (h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and
- (i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.

The City of Bangor failed to prepare and follow a of written qualification program that includes all of the provisions annotated in §195.505.

The City of Bangor provided a copy of their operator qualification program titled, "DOT Operator Qualification Plan", and dated February 1, 2011 for review during the inspection. This document does not meet the requirements specified in §195.505. For example, the City of Bangor's DOT Operation Qualification Plan does not include information on how the covered task list was developed, does not contain a complete list of covered tasks (for example, missing covered tasks such as measuring pipe-to-soil potentials and conducting close interval surveys), and contains a three year reevaluation interval for all tasks with no justification or basis for the interval. Additionally, the DOT Operator Qualification Plan does not identify initial qualification, retraining, and reevaluation requirements for individuals performing covered tasks, nor does it have a documented training program to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the task.

Proposed Compliance Order

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations.

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 items 1, 2, 3 and 4 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to City of Bangor. 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 Compliance 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). 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.

Please submit all correspondence in this matter to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. Please refer to **CPF 1-2015-6001** on each document you submit and please, whenever possible, provide a signed PDF copy in electronic format. Smaller files may be emailed to [Byron.Coy@dot.gov](mailto:Byron.Coy@dot.gov). Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Byron Coy, PE  
Director, Eastern Region  
Pipeline and Hazardous Materials Safety Administration

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

**PROPOSED COMPLIANCE ORDER**

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

1. With respect to Item Number 1 of the Notice pertaining to City of Bangor failure to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies, City of Bangor shall complete at a minimum, the following actions:
  - a. Establish and implement a manual of written procedures that fulfill the requirements of §195.402 in its entirety (e.g. Emergency Response Training Program, Damage Prevention Program, Integrity Management Program, Corrosion Control Procedures, etc.) (O&M manual) within 270 days of issuance of the Final Order.
2. With respect to Item Number 2 of the Notice pertaining to the City of Bangor's failure to maintain detailed records to demonstrate that the maximum operating pressure (MOP) of its jurisdictional pipeline were determined in accordance with §195.406(a), the City of Bangor shall provide sufficient procedures for, and adequate records related to, the establishment of the MOP in accordance with §195.406 for all jurisdictional pipeline segments within 90 days of the issuance of the Final Order. For any pipeline facilities that do not have the necessary and adequate MOP records necessary to establish the MOP, see 2a. below.
  - a. For any pipeline facilities that do not have the necessary MOP records necessary and adequate records to establish the MOP, develop and implement a plan to establish MOP in accordance with §195.406. Submit this plan to the Region Director for possible modification and approval within 150 days of issuance of the Final Order, and have the MOP established with 365 days of issuance of the Final Order. The plan must include the following:
    - i. A list of all jurisdictional pipeline segments.
    - ii. Delineate those sections needing pressure testing from any not needing pressure tests.
    - iii. Conduct any pressure tests in accordance with Subpart E in 49 CFR Part 195.
    - iv. Safety measure that should be taken pre- and post- pressure testing.
    - v. Documentation showing completion of any associated repairs identified during the pressure test in accordance with appropriate procedures and federal pipeline safety regulation.
  - b. Provide O&M Procedures documenting MOP, to include information on how the pipeline facilities will be operated and monitored to assure operation within the limits prescribed by §195.406 within 365 days of issuance of the Final Order.
3. With respect to Item Number 3 of the Notice pertaining to the City of Bangor's failure to prepare and follow a written integrity management program in accordance with §195.452, the City of Bangor shall:

- a. Establish and implement pipeline integrity management program that fulfills the requirements of §195.452 in its entirety, to include development and implementation of a baseline assessment, within 365 days of issuance of the Final Order. The operator shall submit the following information to the Region Director within 270 days of issuance of the Final Order:
  - i. A description of the pipeline covered under the integrity management program to include type and grade of pipe, age of pipe, welding type(s) utilized on the pipeline (longitudinal (if applicable) and circumferential)
  - ii. The methods selected to assess the integrity of the line pipeline.
  - iii. The schedule for completing the integrity assessment established in accordance with 195.452.
4. With respect to Item Number 4 of the Notice pertaining to the City of Bangor's failure to have and follow a written qualification program (OQ program), the City of Bangor shall complete at a minimum, the following actions within 270 days of issuance of the Final Order:
  - a. Establish and implement an OQ program consistent §195.505 to include all tasks that meet the four-part test in §195.501. The plan must include:
    - i. A listing of all tasks that are required to be performed by qualified individuals.
    - ii. A listing of all qualified individuals, and the tasks and dates for which they were qualified.
    - iii. Initial qualification, retraining, and reevaluation requirements for each covered task to demonstrate knowledge, skills, and abilities of the qualified individuals.
    - iv. Procedures for ensuring that contractor personnel performing covered tasks on the pipeline facilities are qualified.
5. All documentation demonstrating compliance with each of the items outlined in this Compliance Order must be submitted to Byron Coy, PE, Director, Eastern Region, PHMSA, Bear Tavern Road, Suite 103, West Trenton, NJ 08628. Documentation and recordkeeping must be consistent with appropriate regulations in 49 C.F.R. Part 195.
6. It is requested (not mandated) that City of Bangor maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, PE, 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.