



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.771.7800

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

OVERNIGHT EXPRESS DELIVERY

July 13, 2018

Mr. Steven Thompson
Senior Vice President
Eastern Shore Natural Gas Company
1110 Forrest Avenue
Suite 201
Dover, DE 19904

CPF 1-2018-1013

Dear Mr. Thompson:

From May 15, 2017 to June 22, 2017, 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 (U.S.C.) inspected Eastern Shore Natural Gas Company's (ESNG) pipeline system in Delaware, Maryland and Pennsylvania.

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 items inspected and the probable violation(s) are:

1. § 192.736 Compressor stations: Gas detection.

(c) Each gas detection and alarm system required by this section must be maintained to function properly. The maintenance must include performance tests.

ESNG failed to conduct performance tests of the fixed gas detection units in the compressor stations to verify that an alarm was actuated at a gas concentration of not more than 25% LEL, per the requirements of § 192.736(b) and (c).

Sections 192.736(b) and (c) state:

“(b) Except when shutdown of the system is necessary for maintenance under paragraph (c) of this section, each gas detection and alarm system required by this section must-

- (1) Continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit; and
- (2) If that concentration of gas is detected, warn persons about to enter the building and persons inside the building of the danger.

(c) Each gas detection and alarm system required by this section must be maintained to function properly. The maintenance must include performance tests. (emphasis added)”

During the inspection, the PHMSA inspector reviewed records at Delaware City and Bridgeville compressor stations for testing of gas detectors, flame detectors, and smoke detectors for 2014, 2015, and 2016.

The records demonstrated testing of the fixed gas detectors at a concentration of 50% LEL, which triggers both an audible and visual alarm, as well as a station ESD. In follow-up conversations with the ESNG staff, the PHMSA inspector established that ESNG only used 50% LEL calibration gas in its performance testing and calibration of the fixed gas detectors at the Bridgeville and Delaware City compressor stations. The records did not demonstrate performance tests that verify that the gas detection devices actuate audible and visual alarms at a gas concentration of 25% LEL or less.

ESNG therefore failed to conduct adequate performance tests of each gas detection and alarm system in two compressor stations in accordance with § 192.736(c) for 2014, 2015, and 2016.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$24,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$24,100

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. All material submit in response to this enforcement action may be 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 the receipt of this Notice. This period may be extended by written request for good cause.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, New Jersey 08628. Please refer to **CPF 1-2018-1013** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@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,

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

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

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*