



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

May 6, 2019

Charles Denault
President
Delaware Storage and Pipeline Company
400 Amherst Street, Suite 202
Nashua, NH 03063

CPF 1-2019-6006

Dear Mr. Denault:

From August 7 - August 11, 2017, a representative from the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), performed an inspection of Delaware Storage and Pipeline Company's (Delaware SPC) Dover AFB Pipeline system located in Delaware.

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 violation(s) are:

1. § 195.444 CPM Leak Detection.

Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid) must comply with API RP 1130 (incorporated by reference, see § 195.3) in operating, maintaining, testing, record keeping, and dispatcher training of the system.

Delaware SPC failed to maintain records demonstrating compliance with API 1130 requirements for testing and maintaining its computation pipeline monitoring leak detection system. Specifically, Delaware SPC failed to maintain records documenting that the field instrumentation used in the leak detection system were tested and calibrated as per the requirements of Section 5.1.3 of API RP 1130 (incorporate by reference into Part 195).

Section 5.1.3 of API 1130, Calibration and Maintenance of CPM Instrumentation and Measurement, states in part:

To maximize and maintain CPM performance, each pipeline company should prepare a CPM instrumentation list and a maintenance and calibration plan with procedures. This plan should recognize the importance of the CPM system to provide safe operation of the pipeline and provide for the priority repair of CPM critical instrumentation and measurement. It is possible that the plan could result in instrumentation and measurement calibration practices that may exceed the requirements of applicable regulations.

In the CPM instrumentation and measurement calibration and maintenance plan, procedures should be developed to co-ordinate the test and re-calibration of field instrumentation with Pipeline Controllers and CPM system maintenance personnel, since re-calibration may affect availability and performance of the system. The procedures should include the date, time, person's initials, and the events performed during the test. Instrumentation and measurement should be calibrated in accordance with manufacturer's recommendations and calibrations should be traceable to National Institute for Standards and Testing. Operating experience should provide the basis for determining an appropriate test and re-calibration fixed interval. However, the CPM system itself, may be in some cases the best indication of the necessity to test and re-calibrate a particular instrument or measurement at a random interval.

During the inspection, the PHMSA inspectors requested Delaware SPC's procedures and records demonstrating the testing and calibration of field instrumentation used in the leak detection system. Delaware SPC did not provide a plan or procedure for maintaining and calibrating CPM instrumentation. Additionally, Delaware SPC failed to provide any records demonstrating that testing and calibration of CPM instrumentation and measurement was performed.

Calibration of field instrumentation is critical to the safe operation of the pipeline, the overall performance of the leak detection system and the ability to give accurate indications of a leak.

Therefore, Delaware SPC failed to maintain records demonstrating compliance with Section 5.1.3 of API 1130 for its CPM system regarding testing and calibration of field instrumentation.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. 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. 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.

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, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Delaware Storage and Pipeline Company. 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. All material you 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 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, 840 Bear Tavern Road, Suite 300, West Trenton, New Jersey 08628. Please refer to **CPF 1-2019-6006** 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

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 Delaware Storage and Pipeline Company (Delaware SPC) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Delaware SPC with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to Delaware SPC's failure to maintain records demonstrating compliance with API 1130 requirements for testing and maintaining its computational pipeline monitoring (CPM) leak detection system as required by § 195.444, Delaware SPC shall complete the following actions:
 - a. Prepare a test and calibration plan for its CPM leak detection system. This plan should include steps to document the accuracy of field instrumentation, instrument specifications and a testing and recalibration frequency for field equipment. The testing and calibration shall be required to be performed by a person qualified to perform such tasks. This plan shall be provided to PHMSA for review and approval.
 - b. This action must be completed within 180 days of issuance of the Final Order.
2. It is requested (not mandated) that Delaware SPC 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.