



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety**

901 Locust Street, Suite 480
Kansas City, MO 64106

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

VIA ELECTRONIC MAIL TO: scott.hallam@bwpipelines.com;
tina.baker@bwpipelines.com

August 22, 2024

Mr. Scott Hallam
President/CEO
Boardwalk Pipelines, LP
9 Greenway Plaza, Suite 2800
Houston, TX 77046

CPF 3-2024-066-NOPV

Dear Mr. Hallam:

From August 21 through October 5, 2023, representatives 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 the Texas Gas Transmission, LLC, and Gulf South Pipeline Company, LLC (BW Pipelines)¹ procedures and records for the new Gas Integrity Rule² in Owensboro, Kentucky.

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

1. § 192.5 Class locations.

(a)

(b) Except as provided in paragraph (c) of this section, pipeline locations are classified as follows:

¹ Boardwalk Pipelines, LP, is the primary safety relation for both Texas Gas Transmission, LLC, and Gulf South Pipeline Company, LLC. Both Texas Gas Transmission, LLC, and Gulf South Pipeline Company, LLC, are subsidiaries of Boardwalk Pipelines, LP. See Our Business, BOARDWALK PIPELINES, <https://www.bwpipelines.com/our-business/default.aspx> (last accessed August 12, 2024). The inspection covered both assets and therefore both assets will be referred to jointly as Boardwalk Pipelines, LP (BW Pipelines).

² 84 Fed. Reg. 52180 (Oct. 1, 2019).

(1)

(3) A Class 3 location is:

(i)

(ii) **An area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)**

BW Pipelines did not identify a Class 3 location along Line 129 on the Gulf South System located at coordinates 29.576042°, -95.867190°, per the requirements of § 192.5(b)(3)(ii). At the time of the inspection, the line was designated as a Class 1 location. However, PHMSA's review of BW Pipeline's maps found that there is a building within 100 yards of the pipelines that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. A subsequent field survey by BW Pipeline personnel verified that the building was within 100 yards of the pipeline. BW Pipeline changed the designation to a Class 3 area following the field survey. A historical review of Google Maps found that the current configuration of the building had been this way since 2014.

Thus, BW Pipelines did not correctly identify a Class 3 location in violation of the requirements of § 192.5(b)(3)(ii).

2. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

BW Pipelines did not follow its manual of written procedures in accordance with § 192.605(a). Specifically, BW Pipelines did not follow its "Gas Integrity Management Plan" (IMP), Chapter 05, "Baseline and Reassessment Plan," and Chapter 03, "Identification of Pipeline HCA Covered Segments and Non-HCA Covered Segments," which required the identification of Moderate Consequence Areas (MCA) for the purposes of baseline assessment in accordance with § 192.710(b).

During PHMSA's inspection, PHMSA inspectors reviewed BW Pipelines' pipeline system for MCAs and determined that six MCAs were missed at the time of the inspection. A historical review of Google Maps found that these locations existed prior to the effective date of the regulation, which was July 1, 2021. As a result, BW Pipelines did not complete an initial MCA analysis for the baseline assessment plan which should have included the six missed MCAs. The missed MCAs discovered during PHMSA's inspection were as follows:

<u>Location</u>	<u>Coordinates</u>
<ul style="list-style-type: none"> • Texas Gas Transmission System; Hwy 71 Crossing <ul style="list-style-type: none"> ○ Lines BAE 26-1TT; 30-1TT; 36-1TT • Gulf South System; Hwy 71 Crossing <ul style="list-style-type: none"> ○ Line 202-8-2 ○ Line 202-8 (PIR of the line touches all lanes) • Gulf South System; Northwest Blvd Crossing <ul style="list-style-type: none"> ○ Index 205 and 131 • Gulf South System; Hwy 23 <ul style="list-style-type: none"> ○ Index 293-8 and 293-4 • Gulf South System; Hwy 23 <ul style="list-style-type: none"> ○ Index 293-2 	31.054538°, -92.371902° 31.059889°, -92.377347° 31.075286°, -92.389697° 29.800540°, -91.527102° 29.572837°, -89.808779° 29.285089°, -89.364148°

Thus, BW Pipelines did not follow its IMP chapters 05 and 03 for the identification of MCAs in five locations, in violation of § 192.605(a).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violation and recommend that you be preliminarily assessed a civil penalty of \$68,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$68,800

Proposed Compliance Order

With respect to Item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Boardwalk Pipelines, LP. 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 Enforcement 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 3-2024-066-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: Tina Baker, Manager, Compliance Services, BW Pipelines, LP,
tina.baker@bwpipelines.com

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 Boardwalk Pipelines, LP (BW Pipelines), a Compliance Order incorporating the following remedial requirements to ensure the compliance of BW Pipelines with the pipeline safety regulations:

- A. In regard to Item 2 of the Notice, pertaining to missed Moderate Consequence Areas (MCAs), BW Pipelines must review all processes that are associated with the identification of MCAs to determine how existing structure and roadway MCAs were not previously identified and provide documentation of the review to Gregory A. Ochs, Director, Central Region, Pipeline and Hazardous Materials Safety Administration (Director) within **90 days** of issuance of the Final Order. Once this review is complete, BW Pipelines must ensure all MCAs and other pipe segments subject to § 192.710 are identified and submit the final results to the Director within **180 days** of issuance of the Final Order.
- B. It is requested that BW Pipelines maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.