



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 CIVIL PENALTY**

UPS OVERNIGHT DELIVERY

May 31, 2011

Mr. Barry Cigich
Vice President Operations and Engineering
Energy Midstream
Two Brush Creek Boulevard, Suite 200
Kansas City, MO 64112

CPF 1-2011-1010

Dear Mr. Cigich:

On August 3 and 4, 2010, inspectors from the New York State Department of Public Service (NYSDPS), acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the Central New York Oil & Gas (CNYOG) pipeline facilities in Owego, NY.

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

1. § 192.705 Transmission lines: Patrolling.

(b) The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following table:

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1, 2	7 1/2 months; but at least twice each calendar year.	15 months; but at least once each calendar year.

CNYOG did not perform patrols at highway and railroad crossings at least twice each calendar year not to exceed a maximum interval of 7 1/2 months between patrols.

The CNYOG representative stated that patrols at highway and railroad crossings were made only once a year during the annual leakage survey of the piping.

NYS DPS inspector examined the record of the 2009 and 2010 patrols done during the annual leakage surveys.

2. § 192.455 External corrosion control: Buried or submerged pipelines installed after July 31, 1971.

(a) Except as provided in paragraphs (b), (c), and (f) of this section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following:

(2) It must have a cathodic protection system designed to protect the pipeline in accordance with this subpart, installed and placed in operation within 1 year after completion of construction.

CNYOG did not demonstrate that a 9 mile long pipeline installed and placed into service in 2008 has a cathodic protection system designed to protect the pipeline in accordance with the requirements for corrosion control under Subpart I of Part 192.

The CNYOG representatives stated that no close interval survey (CIS) has ever been performed on the 9 mile long pipeline to determine adequate coverage of the initial cathodic protection system installed for that pipeline. CNYOG has only checked the cathodic protection of the 9 mile pipeline at 10 separate test stations, taking pipe-to-soil reading without temporarily disconnecting the anodes at the test stations.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$16,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$16,200

Warning Items

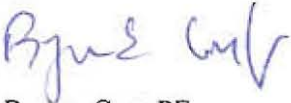
With respect to item 2, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Be advised that failure to do so may result in CNYOG being subject to additional enforcement action.

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.

In your correspondence on this matter, please send to Byron Coy, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628 and refer to **CPF 1-2011-1010**. For each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



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

Cc: NYSDPS- Mr. Gavin Nicoletta

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