



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**

EXPRESS OVERNIGHT DELIVERY

May 21, 2012

Mr. Michael Eastman, VP Gas Assets
Rochester Gas and Electric
89 East Avenue
Rochester, NY 14649-0001

CPF 1-2012-1004

Dear Mr. Eastman:

From July 12 - August 23, 2010, representatives of New York State Department of Public Service (NYSDPS) acting as agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected New York State Electric and Gas (NYSEG) natural gas storage facility and associated pipeline at your Seneca Storage facility in Watkins Glen, New York.

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. **§ 192.625 Odorization of gas.**
(b) After December 31, 1976, a combustible gas in a transmission line in a Class 3 or Class 4 location must comply with the requirements of paragraph (a) of this section unless:

NYSEG failed to ensure that the gas flowing through the Class 3 Seneca West Pipeline was odorized in accordance with 192.625(b). 49 CFR Part §192.625(a) states in part " ... must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell". NYSEG failed to odorize the gas in the Seneca West Pipeline, in accordance with 192.625(b).

According to the operator's statement, and NYSEG O&M procedure 7.650, Section 6.1, the Seneca West Pipeline is considered to be a Class 3 location.

2. **§ 192.491 Corrosion control records.**
(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

NYSEG failed to maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist, as required by 49 CFR Part §192.475(b).

In 2009, NYSEG meters at the wellhead of the Seneca Storage Facility. This replacement work involved the removal of the existing meters and the reconfiguration of the existing piping to facilitate the installation of the replacement meters.

NYSEG representatives could not produce a record of an internal pipe surface inspection for evidence of corrosion for the 2009 replacement work, as requested by the NYSDPS inspectors.

3. **§ 192.616 Public awareness.**

(f) The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas.

NYSEG failed to have a comprehensive method in place that demonstrated and ensured that all the public living along the pipeline right of way, including public not receiving NYSEG gas or electric services, would be reached with the public awareness information regarding the NYSEG transport of gas as required by the regulation.

NYSEG's public awareness program presented to the NYSDPS inspectors during the NYSEG inspection did not to meet the code requirement to be comprehensive as necessary to reach all areas in which the operator transports gas, and that includes all the public living along the pipeline right of way.

4. **§ 192.491 Corrosion control records.**

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

NYSEG failed to maintain the required records for atmospheric corrosion control inspections done for the portions of the pipeline facilities exposed to the atmosphere in the Seneca Storage facilities and associated piping under §192.481(a).

NYSEG did not produce the required atmospheric corrosion control inspection records as requested by the NYSDPS inspectors. NYSEG stated that there were apparently no documents supporting that the code-required inspection for atmospheric corrosion had been done over the past 3 year/39 month period, as required by §192.481.

5. **§192.706 Transmission lines: Leakage surveys.**

Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with §192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted-

(a) In Class 3 locations, at intervals not exceeding 7 1/2 months, but at least twice each calendar year; and.

For the Seneca Storage Facility and the Seneca West Pipeline, NYSEG failed to conduct leakage surveys of a transmission line at intervals not exceeding 7 1/2 months, but at least twice each calendar year.

NYSEG stated during the 2010 audit that the Storage Facility piping had not been subjected to any instrumented leakage surveys.

NYSEG could not produce the required leakage survey records as requested by the NYSDPS inspectors.

6. **§ 192.751 Prevention of accidental ignition.**

Each operator shall take steps to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion, including the following:

(c) Post warning signs, where appropriate.

The NYSEG Hibbard Road and Backer Roads valve set facilities did not have sufficient legible “No Smoking or Open Flames” warning signs to minimize the danger of accidental ignition of gas at or near the valve set locations. Warning signs were installed only on one side of the facility and not on all sides as appropriate.

Photographs were taken by the NYSDPS inspectors at the locations cited in the previous paragraph.

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 \$52,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 10,000
2	\$ 8,700
3	\$ 10,000
4	\$ 8,700
5	\$ 14,600

Warning Items

With respect to item 6, 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 NYSEG 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.

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 1-2012-1004** 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. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

Byron Coy, P.E.
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Cc: Kevin Speicher, NYSDPS

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