



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 MAIL

August 10, 2012

Mr. Richard R. Fisette, Vice President
International Matex Tank Terminals (IMTT-Pipeline)
250 E 22nd St.
Bayonne, NJ 07002

CPF 1-2012-5016

Dear Mr. Fisette:

On August 16-19, 2010, a representative the New York State Department of Public Service (NYSDPS) acting as agent of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your pipeline facilities in Staten Island, 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. §195.266 Construction records.

A complete record that shows the following must be maintained by the operator involved for the life of each pipeline facility

- (a) The total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.**

IMTT – Pipeline (IMTT) did not have a complete record related to the construction records required by §195.266(a).

The number of welds that were inspected by non-destructive testing (NDT), the number of welds rejected, and the disposition of the rejected welds were not available. IMTT claimed to have the records, but did not provide the records to the NYSDPS inspector.

2. §195.266 Construction records.

A complete record that shows the following must be maintained by the operator involved for the life of each pipeline facility

(b) The amount, location, and cover of each size of pipe installed.

IMTT did not have a complete record related to the construction records required by §195.266(b). IMTT did not have a record showing the location of the pipeline and depth of cover of the pipe.

When asked to provide the record by the NYSDPS inspector, IMTT representatives presented a map. The map was insufficient in that it did not show the location of the pipeline and depth of cover of the pipe.

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 \$35,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$17,500
2	\$17,500

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 1-2012-5016** 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 E. Coy, P.E.
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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

Cc: Kevin Speicher NYSDPS