

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

OVERNIGHT EXPRESS DELIVERY

September 21, 2018

Mr. Pete Pirog
Vice President and General Manager
MIPC LLC
920 Cherry Tree Road
Aston, PA 19014

CPF 1-2018-5012

Dear Mr. Pirog:

From May 15-19, 2017, a representative 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 MIPC LLC's (MIPC) Trainer and Chelsea pipelines and facilities located in the area of Aston, Pa.

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. § 195.432 Inspection of in-service breakout tanks.

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

MIPC failed to maintain documentation of remedial actions resulting from internal breakout tank inspections required by API Std 653 in § 195.432(b).

API Standard 653 3rd edition (incorporated by reference, see § 195.3) (API 653) states in Section 6.8.3, Inspection History:

“The inspection history includes all measurements taken, the condition of all parts inspected, and a record of all examinations and tests. A complete description of any unusual conditions with recommendations for correction of details which caused the conditions shall also be included. This file will also contain corrosion rate and inspection interval calculations.”

Section 6.8.4, Repair/Alteration History, states:

“The repair/alteration history includes all data accumulated on a tank from the time of its construction with regard to repairs, alterations, replacements, and service changes (recorded with service conditions such as stored product temperature and pressure). These records should include the results of any experiences with coatings and linings.”

Section 6.9.3.2 of Recommendations states in part:

“The owner/operator shall ensure that the disposition of all recommended repairs and monitoring is documented in writing and that reasons are given if recommended actions are delayed or deemed unnecessary.”

During the inspection, MIPC provided records of internal tank inspections of its breakout tanks at its Chelsea Terminal. These records indicated that internal inspections were completed on February 23, 2017 for Tank 706 and on June 19, 2013 for Tank 707. The PHMSA inspector requested records of the subsequent remedial actions resulting from the recommendations and suggestions made in the inspection reports. MIPC was unable to produce records of the repairs in accordance with the inspection report recommendations, both at the time of inspection and in subsequent PHMSA requests.

Therefore, MIPC failed to maintain documentation of remedial actions taken based on recommendations from API 653 internal inspections of its Tanks 706 and 707.

2. § 195.432 Inspection of in-service breakout tanks.

(d) The intervals of inspection specified by documents referenced in paragraphs (b) and (c) of this section begin on May 3, 1999, or on the operator’s last recorded date of the inspection, whichever is earlier.

MIPC failed to perform an internal inspection of Chelsea Terminal’s Tank 706 within the maximum time interval required by API Standard 653 3rd edition (incorporated by reference, see § 195.3) (API 653).

Section 195.432(b) states in part:

“Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653...”

API 653 states in section 6.4.2, Inspection Intervals (emphasis added):

“6.4.2.1 Intervals between internal inspections shall be determined by the corrosion rates measured during previous inspections or anticipated based on experience with tanks in similar service. Normally, bottom corrosion rates will control and the inspection interval will be governed by the measured or anticipated corrosion rates and the calculations for minimum required thickness of tank bottoms (see 4.4.7). The actual inspection interval shall be set to ensure that the bottom plate minimum thicknesses at the next inspection are not less than the values listed in Table 6-1. In no case, however, shall the internal inspection interval exceed 20 years.”

A review of MIPC’s internal inspection dates for Tank 706 demonstrated that MIPC exceeded the API 653 maximum interval of 20 years between its 1996 and 2017 internal inspections. The dates MIPC performed internal inspections of Tank 706 were December 3, 1996 and February 23, 2017, an inspection interval of 20 years and 83 days.

Therefore, MIPC failed to comply with the maximum time interval for internal inspections of breakout tanks required by API 653.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. 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. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$52,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$24,500
2	\$27.600

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 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 the 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, 820 Bear Tavern Road, Suite 103, West Trenton, New Jersey 08628. Please refer to **CPF 1- 2018-5012** 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,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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