

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY**

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	)	
In the Matter of	)	
	)	
IMTT-Pipeline,	)	CPF No. 1-2022-016-NOPV
	)	
Respondent.	)	
	)	

**Request for Hearing, Preliminary Statement of Issues
and Request for Settlement Meeting
of IMTT-Pipeline**

Pursuant to § 190.208(a)(4) and § 190.211, International-Matex Tank Terminals (IMTT-Pipeline) submits a Request for Hearing and Preliminary Statement of Issues regarding the Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) issued on July 1, 2022, following an inspection conducted by the Office of Pipeline Safety (OPS). On July 14, 2022, the Pipeline and Hazardous Materials Safety Administration (PHMSA) approved by email an extension until September 29, 2022 to respond to the Notice. Therefore, this Response is timely.

The Notice alleges 14 probable violations. IMTT-Pipeline does not contest Item 10¹ and Item 14. The following are warning items: Item 3, Item 4, Item 5, Item 7, Item 8, Item 9, and Item 13.

IMTT-Pipeline is committed to public safety and operating its pipeline facilities in accordance with PHMSA's regulations. IMTT-Pipeline takes PHMSA's allegations of violation seriously, however, certain allegations in the Notice are legally and factually unsupported and must be withdrawn. IMTT-Pipeline contests Item 1, Item 2, Item 6, Item 11, and Item 12 and requests a hearing on these items. Concurrently with this request, IMTT-Pipeline has filed a written response with respect to the contested items in the Notice.

As permitted under 49 U.S.C. § 60117(b)(1),² IMTT-Pipeline requests a settlement meeting to discuss resolution of the alleged violations. IMTT-Pipeline also requests that the presiding official delay for 60 days the scheduling of a hearing to allow the parties sufficient time to convene a meeting to resolve issues through a settlement.

¹ Note that the Violation Report for CPF No. 1-2022-016 reverses the order of Item 10 and Item 11, identifying Item 11 as Item 10 and vice versa. This numbering is different from how the items are numbered in the Notice posted on PHMSA's website which is the version relied on in this Response. The Item numbers in the proposed Civil Penalty Worksheet also correspond with Item 10 and Item 11 as they appear in the Notice.

² 49 U.S.C. § 60117(b)(1) (2018), as amended by The Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020, Pub. L. No. 116-260, div. R, title I, § 108(a)(2), 134 Stat. 2221, 2223 (Dec. 27, 2020).

IMTT-Pipeline also notes that on July 1, 2022, PHMSA issued a separate Notice of Probable Violation to IMTT-Bayonne in CPF No. 1-2022-017-NOPV. The facilities of IMTT-Pipeline and IMTT-Bayonne have different Operator Identification numbers but are integrally related and are operated by the same personnel using the same procedures. Several allegations in both Notices are the same or similar. To conserve resources, IMTT-Pipeline requests that PHMSA convene a single settlement meeting (and any hearing if necessary) for both Notices so that they can be addressed together.

Request for Hearing

IMTT-Pipeline requests that PHMSA convene an in-person hearing regarding Item 1, Item 2, Item 6, Item 11, and Item 12.

IMTT-Pipeline will be represented by legal counsel at the hearing and intends to raise the issues identified below in its Preliminary Statement of Issues.

Preliminary Statement of Issues

IMTT-Pipeline intends to raise the issues set forth below in a hearing in this case. IMTT-Pipeline reserves the right to revise these issues at or before the hearing based on any additional information that may be provided in this proceeding.

Item 1 § 195.106 Internal design pressure.

Whether OPS failed to satisfy its burden of proving the existence of a violation of § 195.106 because the allegation is unsupported by the facts and evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether § 195.106 does not apply to the 12IN Linden-Bergen Point pipeline segment because this segment was constructed in 1952, long before § 195.106 was adopted.

Whether the proposed compliance order is overbroad and unsupported by the facts, the case file, the Pipeline Safety Laws, and relevant Part 190 and Part 195 regulations.

Item 2 § 195.402(a) Procedural manual for operations, maintenance, and emergencies.

Whether OPS failed to satisfy its burden of proving that IMTT-Pipeline failed to annually review its operations, maintenance, and emergency manuals because the allegation is unsupported by the facts and the evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether the proposed civil penalty is inappropriate and unsupported by the facts, the case file, the Pipeline Safety Laws and relevant Part 190 and Part 195 regulations.

Item 6 § 195.405(a) Protection against ignitions.

Whether OPS failed to satisfy its burden of proving that IMTT-Pipeline lacks records demonstrating that the protection provided to Tank #7640 against the risk of ignition associated with static electricity, lightning and stray currents does not comply with API RP 2003.

Whether the allegation is unsupported by the facts and the evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether the proposed civil penalty is inappropriate and unsupported by the facts, the case file, the Pipeline Safety Laws and relevant Part 190 and Part 195 regulations.

Item 11 § 195.452(i)(1) Pipeline integrity management in high consequence areas.

Whether OPS failed to satisfy its burden of proving that IMTT-Pipeline failed to provide records demonstrating that it implemented preventive and mitigative (P&M) measures and failed to implement P&M measures.

Whether the allegation is unsupported by the facts and the evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether the proposed civil penalty is inappropriate and unsupported by the facts, the case file, the Pipeline Safety Laws and relevant Part 190 and Part 195 regulations.

Item 12 § 195.555 What are the qualifications for supervisors?

Whether OPS failed to satisfy its burden of proving that IMTT-Pipeline did not require and verify that the corrosion control specialist maintained a thorough knowledge of that portion of the corrosion control procedures for which he is responsible for ensuring compliance.

Whether the allegation is unsupported by the facts and the evidence in the case file.

Whether the allegation is unsupported by the Pipeline Safety Laws and is inconsistent with the relevant Part 195 regulations, PHMSA case law and guidance.

Whether the proposed civil penalty is inappropriate and unsupported by the facts, the case file, the Pipeline Safety Laws and relevant Part 190 and Part 195 regulations.

Respectfully submitted,

Shaun Revere
Chief Operating Officer
International-Matex Tank Terminals

September 27, 2022