



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

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

OVERNIGHT EXPRESS DELIVERY

July 1, 2022

Mr. Carlin Conner
President and Chief Executive Officer
IMTT-Pipeline
400 Poydras Street, Suite 3000
New Orleans, Louisiana 70130

CPF 1-2022-016-NOPV

Dear Mr. Conner:

From May 10 to May 24, 2021 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.) conducted an integrated inspection of IMTT-Pipeline and IMTT-Bayonne's records and facilities in Bayonne, New Jersey¹. This notice includes the findings that pertain to IMTT-Pipeline.

As a result of the inspection, it is alleged that IMTT-Pipeline has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 195.106 Internal design pressure.**
 - (a) **Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:**
$$P = (2St/D) \times E \times F$$

¹ IMTT is an interstate hazardous liquid pipeline with approximately 40 miles of pipeline and 117 breakout tanks. It is comprised of two OPIDs – IMTT-Pipeline and IMTT-Bayonne. This integrated inspection also included a review of IMTT-Bayonne's records and facilities; the companion case is CPF 1-2022-017-NOPV.

P = Internal design pressure in p.s.i. (kPa) gage.

S = Yield strength in pounds per square inch (kPa) determined in accordance with paragraph (b) of this section.

t = Nominal wall thickness of the pipe in inches (millimeters). If this is unknown, it is determined in accordance with paragraph (c) of this section.

D = Nominal outside diameter of the pipe in inches (millimeters).

E = Seam joint factor determined in accordance with paragraph (e) of this section.

F = A design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located offshore or on a platform in inland navigable waters, and 0.54 is used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to a temperature higher than 900 °F (482 °C) for any period of time or over 600 °F (316 °C) for more than 1 hour.

IMTT-Pipeline failed to determine the internal design pressure of its jurisdictional pipeline segments in accordance with § 195.106. Specifically, IMTT-Pipeline failed to use conservative yield strength and wall thickness values in §§ 195.106(b)² and 195.106(c)³.

During the inspection, PHMSA requested MOP records of various IMTT-Pipeline pipelines. IMTT-Pipeline provided *MOP Calculation 12IN Bergen Point - 5th St Terminal*, *MOP Calculation 12IN Linden – Bergen Point* and *MOP Calculation 16IN 5th Street Terminal Line*, dated 04032015 (MOP Records). The MOP Records demonstrated that the internal design pressure calculations were not compliant with the requirements of § 195.106 regarding unknown information for yield strength and nominal wall thickness.

The records for *16IN 5th Street Terminal Line*, dated 04032015, *12IN Linden Bergen Point*, dated 04032015, and *12IN Bergen Point – 5th St Terminal*, dated 04032015 stated, “[d]rawings are incomplete & inconclusive; assumptions were made for minimum pipe, flange & fittings.”

These records included values for yield strength and nominal wall thickness that were used to

² § 195.106 Internal design pressure.

(b) The yield strength to be used in determining the internal design pressure under paragraph (a) of this section is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following: ...

³ § 195.106 Internal design pressure.

(c) If the nominal wall thickness to be used in determining internal design pressure under paragraph (a) of this section is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size, and thickness, only 10 individual lengths or 5 percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gage set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurements taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 20 inches (508 mm) nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 20 inches (508 mm) or more in nominal outside diameter.

perform calculations pursuant to § 195.106(a). However, as indicated by the comments, these values were assumptions; not the conservative values prescribed in §§ 195.106(b) and 195.106(c) for unknown yield strength and wall thickness, respectively. When PHMSA requested additional information on the assumptions made in the MOP Records, IMTT-Pipeline was unable to provide a response.

Therefore, IMTT failed to determine the internal design pressure of these pipelines in accordance with § 195.106(a).

2. § 195.402 Procedural Manual for operations, maintenance, and emergencies.

(a) General. Each operator must prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

IMTT-Pipeline failed to conduct a review of its operations, maintenance, and emergency manual, at intervals not exceeding 15 months, but at least once each calendar year, and make appropriate changes as necessary to insure that the manual is effective, in accordance with § 195.402(a).

During the inspection, PHMSA requested the annual review records for the operations, maintenance, and emergency manual for calendar years 2019 and 2020. IMTT-Pipeline provided its *Operations, Maintenance and Emergency Manual Version 3, dated May 6, 2019* (2019 OME), its *Operations, Maintenance and Emergency Manual Version 1, dated August 2020* (2020 OME) and its *Facility Response Plan Version 6, dated January 2021* (FRP), a part of its OME which IMTT identified as its emergency procedures relative to § 195.402. IMTT-Pipeline stated that Appendix E contained the revision logs for its 2019 and 2020 OME, and Appendix T contained revision logs for its FRP (collectively, Revision Logs). The Revision Logs failed to indicate that an annual review was conducted, who conducted the annual review, the dates of annual review, and why changes were made. When the PHMSA inspector requested further information, IMTT-Pipeline was unable to provide a response.

Therefore, IMTT-Pipeline failed to conduct an annual review of its operations, maintenance, and emergency manuals during calendar years 2019 and 2020 at intervals not exceeding 15 months, but at least once each calendar year, in accordance with § 195.402(a).

3. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) ...

(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) ...

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

IMTT-Pipeline failed to conduct periodic reviews of the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found, in accordance with § 195.402(c)(13).⁴

During the inspection, PHMSA requested effectiveness review records for calendar year 2020. IMTT-Pipeline failed to provide any effectiveness review records for calendar year 2020.

Therefore, IMTT-Pipeline failed to conduct periodic reviews of the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found, in accordance with § 195.402(c)(13).

4. § 195.404 Maps and records.

(a) ...

(c) Each operator shall maintain the following records for the periods specified:

(1) ...

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

IMTT-Pipeline failed to maintain adequate records of each inspection or test required by 49 CFR Part 195 subpart F for at least two years or until the next inspection or test is performed, whichever is longer. Specifically, IMTT-Pipeline failed to maintain adequate records in calendar years 2019 and 2020 for conducting mainline valve inspections required by § 195.420(b).

Section 195.420(b) states:

(b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

During the inspection, PHMSA requested the mainline valve procedure. IMTT provided its 2020 OME. The 2020 OME Section 19.1.4.5 states, “[e]nsure that the valve is safe and is functioning properly...” and “[v]isually inspect the valve for leaks, cracks, and/or corrosion.”

During the inspection, PHMSA also requested records for mainline valve inspections for calendar year 2019 and 2020. IMTT-Pipeline provided its *2019 and 2020 Mainline Valve inspection Form* (Valve Records). The Valve Records, however, failed to indicate whether or not the mainline valves were tested and whether or not they are functioning properly.

⁴ IMTT’s OME Section 6.7 requires effectiveness review to be conducted annually not to exceed 15 months.

Therefore, IMTT-Pipeline failed to maintain adequate records for conducting and recording mainline valve inspections for calendar years 2019 and 2020.

5. § 195.404 Maps and records.

(a) ...

(c) **Each operator shall maintain the following records for the periods specified:**

(1) ...

(3) **A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.**

IMTT-Pipeline failed to maintain adequate records of each inspection or test required by 49 CFR Part 195 subpart F for at least two years or until the next inspection or test is performed, whichever is longer. Specifically, IMTT-Pipeline failed to maintain adequate external visual (monthly) breakout tank inspection records for one of its tanks for calendar year 2020.

Section 195.432(b) states, in relevant part, that 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 Standard 653 Section 6.3.1.3 states in part:

This routine in-service inspection shall include a visual inspection of the tank's exterior surfaces. Evidence of leaks; shell distortions; signs of settlement; corrosion; and condition of the foundation, paint coatings, insulation systems, and appurtenances should be documented for follow-up action by an authorized inspector.

During the inspection, PHMSA requested API Standard 653 routine in-service inspection records for all IMTT-Pipeline breakout tanks for calendar years 2019 and 2020. IMTT-Pipeline provided *Required Checklist- Monthly Tank Inspections* (Monthly BOT Checklist) and *IMTT Work Order – Monthly Visual External Tank Inspections* (BOT Work Order Records). The BOT Work Order Records failed to contain the details listed on the Monthly BOT Checklist demonstrating that required aspects of the visual inspection were completed, rather most were annotated with words like “Pass” and “OOS”.

Therefore, IMTT-Pipeline failed to maintain adequate external visual (monthly) breakout tank inspection records for tank #7640 for calendar year 2020, in accordance with § 195.404(c)(3).

6. § 195.405 Protection against ignitions and safe access/egress involving floating roofs.

(a) After October 2, 2000, protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving aboveground breakout tanks must be in accordance with API RP 2003 (incorporated by reference, see §195.3), unless the operator notes in the procedural manual (§195.402(c)) why compliance with all or certain provisions of API RP 2003 is not necessary for the safety of a particular breakout tank.

IMTT-Pipeline failed to maintain records demonstrating that protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving aboveground breakout tanks was done in accordance with API Recommended Practice 2003, 7th edition (API RP 2003), and failed to note in its procedural manual why compliance with all or certain provisions of API RP 2003 were not necessary for safety of a particular breakout tank.

During the inspection, PHMSA requested records demonstrating compliance with § 195.405(a) for calendar year 2019 and 2020. IMTT-Pipeline failed to provide any records or other substantiating evidence demonstrating that in 2019 or 2020 it provided protection against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving breakout tanks in accordance with API RP 2003. When the PHMSA inspector requested further information, IMTT-Pipeline indicated that this information may be located on the breakout tank external inspection reports, but this record failed to include any information regarding protection against ignitions arising out of static electricity.

Therefore, IMTT-Pipeline failed to maintain records for 2019 and 2020 demonstrating that protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving aboveground breakout tanks was done in accordance with API RP 2003, as required by § 195.405(a).

7. § 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

IMTT-Pipeline failed to inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used. Specifically, IMTT-Pipeline failed in one instance to inspect and test

its overpressure safety device in 2020.

During the inspection, PHMSA requested pressure relief valve inspection records for calendar year 2020. IMTT-Pipeline did not have records for PRV-082R during calendar year 2020. IMTT-Pipeline stated they did not do the inspection in calendar year 2020 due to Covid-19 and were unable to produce any records.

Therefore, IMTT-Pipeline failed to inspect and test each pressure relief valve during calendar year 2020, in accordance with § 195.428(a).

8. § 195.432 Inspection of in-service breakout tanks.

(a) ...

(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.

IMTT-Pipeline failed to inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to American Petroleum Institute (API) Standard 653 (incorporated by reference into 49 C.F.R. Part 195, see 195.3(b)(19)), as prescribed in § 195.432(b). Specifically, IMTT-Pipeline did not perform external visual (monthly) breakout tank inspections for breakout tank #7640 for February through December 2019, as specified under API Standard 653 Section 6.3.1.3 – Routine In-Service Inspections.

Section 6.3.1.3 stated in part:

This routine in-service inspection shall include a visual inspection of the tank's exterior surfaces. Evidence of leaks; shell distortions; signs of settlement; corrosion; and condition of the foundation, paint coatings, insulation systems, and appurtenances should be documented for follow-up action by an authorized inspector.

During the inspection, PHMSA requested API Standard 653 routine in-service inspection records for all IMTT-Pipeline breakout tanks for calendar years 2019 and 2020. IMTT-Pipeline provided its Monthly BOT Records and BOT Work Order Records. Regarding the Monthly BOT Records, these records failed to include February through December of calendar year 2019.

Therefore, IMTT-Pipeline failed to inspect a steel atmospheric or low-pressure breakout tank for their routine in-service inspections during February through December 2019, in accordance with § 195.432(b).

9. § 195.452 Pipeline integrity management in high consequence areas.

(a)...

(b) What program and practices must operators use to manage pipeline integrity? Each operator of a pipeline covered by this section must:

(1) ...

(5) Implement and follow the program.

IMTT-Pipeline failed to implement and follow its Integrity Management program. Specifically, IMTT failed to follow its *IMTT's Liquid Integrity Management Program Procedure Version 1 dated June 2018* (IMP) Section 8.4 regarding performance metrics for calendar year 2020 .

During the inspection, PHMSA reviewed IMTT-Pipeline's IMP. The IMP Section 8.4 stated, "IMTT conducts program evaluations on an ongoing basis with information accumulated and documented over time. In addition, IMTT-Pipeline's IMP undergoes a formal annual review..."

PHMSA requested records for 2020 demonstrating compliance with the requirements of IMP Section 8.4. IMTT-Pipeline was unable to provide any records for calendar year 2020.

Therefore, IMTT-Pipeline failed to implement and follow its IMP regarding formal annual review of its integrity management performance metrics for calendar year 2020, in accordance with § 195.452(b)(5) .

10. § 195.452 Pipeline integrity management in high consequence areas.

(a) ...

(l) What records must an operator keep to demonstrate compliance?

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

IMTT-Pipeline failed to maintain records that demonstrate compliance with the requirements of subpart F. Specifically, IMTT-Pipeline failed to maintain documents of the evaluation of the capability of its leak detection required by § 195.452(i)(3).

Section 195.452(i)(3) states:

(3) Leak detection. An operator must have a means to detect leaks on its pipeline system. An operator must evaluate the capability of its leak detection means and modify, as necessary, to protect the high consequence area. An operator's evaluation must, at least, consider, the following factors—length and size of the pipeline, type of product carried, the pipeline's proximity to the high consequence area, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results.

During the inspection, PHMSA requested records demonstrating compliance with the requirements of § 195.452(i)(3). IMTT-Pipeline failed to produce any records for calendar years 2019 and 2020. Subsequently, PHMSA requested records of any leak evaluations ever

performed and IMTT was unable to provide a response.

Therefore, IMTT-Pipeline failed to maintain records of an evaluation of the capability of its leak detection, in accordance with § 195.452(l)(1).

11. § 195.452 Pipeline integrity management in high consequence areas.

(a) ...

(i) What preventive and mitigative measures must an operator take to protect the high consequence area?

(1) General requirements. An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

IMTT-Pipeline failed to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. Specifically, during calendar years 2019 and 2020, IMTT-Pipeline failed to implement preventive and mitigative actions required pursuant to § 195.452(i)(1).

During the inspection, PHMSA reviewed IMTT-Pipeline's IMP Appendix A, IMP-701, which stated in relevant part that form "IMP-701B: Preventive and Mitigative Measures Tracking List" is used to track, measure implementation, and monitor implemented measures for effectiveness.

PHMSA requested records demonstrating implementation of its IMP preventive and mitigative measures. IMTT-Pipeline did not provide any records for calendar years 2019 and 2020.

Therefore, IMTT-Pipeline failed to implement preventive and mitigative actions during calendar years 2019 and 2020, in accordance with § 195.452(i)(1).

12. § 195.555 What are the qualifications for supervisors?

You must require and verify that supervisors maintain a thorough knowledge of that portion of the corrosion control procedures established under §195.402(c)(3) for which they are responsible for insuring compliance.

IMTT-Pipeline failed to require and verify that supervisors maintain a thorough knowledge of that portion of the corrosion control procedures established under § 195.402(c)(3) for which they are responsible for insuring compliance.

During the inspection, PHMSA requested § 195.555 corrosion control supervisor training records

for calendar years 2019 and 2020. IMTT-Pipeline stated that there is no corrosion control supervisor, but there is a corrosion control specialist. IMTT-Pipeline provided the *NJIT Transcript, CP2- Cathodic Protection Technician NACE Training Certificate* and the *OQ Report* (Supervisor Records). The Supervisor Records did not demonstrate how IMTT-Pipeline requires and verifies that its corrosion control supervisors are maintaining a thorough knowledge of the corrosion control procedures.

Therefore, IMTT-Pipeline failed to require and verify that its supervisors maintain a thorough knowledge of that portion of the corrosion control procedures established under § 195.402(c)(3) for which they are responsible for insuring compliance, in accordance with § 195.555.

13. § 195.573 What must I do to monitor external corrosion control?

(a) ...

(d) Breakout tanks. You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API RP 651 (incorporated by reference, see §195.3). However, this inspection is not required if you note in the corrosion control procedures established under §195.402(c)(3) why complying with all or certain operation and maintenance provisions of API RP 651 is not necessary for the safety of the tank.

IMTT-Pipeline failed to inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API RP 651 (incorporated by reference, see §195.3) and did not note in its corrosion control procedures why complying with all or certain operation and maintenance provisions of API RP 651 is not necessary for the safety of the tank.. Specifically, IMTT-Pipeline failed to inspect the breakout tank cathodic protection system for tank #7640 during calendar years 2019 and 2020.

During the inspection, PHMSA requested records for breakout tanks cathodic protection systems for calendar years 2019 and 2020. IMTT-Pipeline stated that not all of its tanks have cathodic protection. Further, IMTT-Pipeline stated that based on a recent audit they are currently scanning the tank bottoms and establishing new corrosion rates once the next tank internal inspections are due to be taken out of service. IMTT-Pipeline provided the *IMTT PHMSA Breakout Tanks Form* that indicated which tanks have do not have cathodic protection. When PHMSA requested additional information on inspections of the cathodic protection system for tank #7640, which according to IMTT-Pipeline records does have cathodic protection, IMTT-Pipeline did not have a response.

Therefore, IMTT-Pipeline failed to inspect each cathodic protection system used to control corrosion on the bottom of its aboveground breakout tanks to ensure that operation and maintenance of the system are in accordance with API RP 651.

14. § 195.64 National Registry of Operators.

(a) ...

(c) **Changes.** Each operator must notify PHMSA electronically through the National Registry of Operators at <https://portal.phmsa.dot.gov>, of certain events.

(2) An operator must notify PHMSA of any following event not later than 60 days after the event occurs:

(i) A change in the primary entity responsible (i.e., with an assigned OPID) for managing or administering a safety program required by this part covering pipeline facilities operated under multiple OPIDs.

IMTT-Pipeline failed to notify PHMSA of a change in the primary entity responsible for managing or administering a safety program required by this part covering pipeline facilities operated under multiple OPIDs. Specifically, IMTT-Pipeline failed to Notify PHMSA which OPID, IMTT-Pipeline (OPID 32062) or IMTT-Bayonne (OPID 39149) is the primary OPID for managing IMTT-Pipeline's safety program.

During the inspection, PHMSA reviewed IMTT-Pipeline's 2020 OME. IMTT noted that the two OPIDs are operated and maintained under the single operations, maintenance and emergency (OME) safety program. However, when PHMSA reviewed its internal database for IMTT-Pipeline's safety program relationship (SPR) data, it indicated that IMTT's two OPIDs do not operate under a single OME safety program. When the PHMSA inspector requested further information and documentation, IMTT-Pipeline was unable to provide a response and stated that there have been no changes to the OPIDs since they were originally submitted to PHMSA.

Therefore, IMTT-Pipeline failed to notify PHMSA which OPID is the primary OPID for the SPR, in accordance with § 195.64(c)(2)(i).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021, and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019, and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018, and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015, and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$223,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$31,400
6	\$64,600
10	\$64,600
11	\$31,400
12	\$31,400

Warning Items

With respect to items 3, 4, 5, 7, 8, 9, and 13, 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 these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 1, 10, and 14, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to IMTT-Pipeline. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

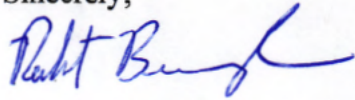
Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you 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 receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 1-2022-016-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Burrough".

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

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to IMTT-Pipeline a Compliance Order incorporating the following remedial requirements to ensure the compliance of IMTT with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to the failure to determine the internal design pressure of the pipeline, IMTT-Pipeline must provide records justifying its calculation of Maximum Operating Pressure (MOP) for the following segments in accordance with § 195.106(a):
1. 12IN Bergen Point – 5th Street Terminal
 2. 12IN Linden – Bergen Point
 3. 16IN 5th Street Terminal

If IMTT-Pipeline is unable to provide adequate records to support an internal design calculation that complies with § 195.106(a)-(c), IMTT-Pipeline must instead develop and submit a work plan for gathering adequate data to verify any unknown properties of these pipelines, for Region Director review and approval. IMTT-Pipeline must complete this within **90** days of receipt of the Final Order.

- B. In regard to Item 10 of the Notice pertaining to the failure to maintain records regarding an evaluation of the capability of its leak detection system, IMTT-Pipeline must complete a leak detection evaluation on its associated pipeline system, in accordance with § 195.452(i)(3) within **90** days of receipt of the Final Order.
- C. In regard to Item 14 of the Notice pertaining to the failure to notify PHMSA through the national registry notifications of its SPR, IMTT-Pipeline must submit notification to PHMSA through the national registry that its OPID's - 32062 IMTT-Pipeline and OPID 39149 IMTT-Bayonne operate under a single SPR, with identification of the primary OPID responsible for managing the safety program, within **30** days of receipt of the Final Order.
- D. It is requested (not mandated) that IMTT-Pipeline maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies, and analyses, and 2) total cost associated with replacements, additions, and other changes to pipeline.