



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-Bayonne  
400 Poydras Street, Suite 3000  
New Orleans, Louisiana 70130

**CPF 1-2022-017-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-Bayonne and IMTT-Pipeline's records and facilities in Bayonne, New Jersey.<sup>1</sup> This notice includes the findings that pertain to IMTT-Bayonne.

As a result of the inspection, it is alleged that IMTT-Bayonne 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. § 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.**
  - (a) ...**

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<sup>1</sup> 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-Pipeline's records and facilities; the companion case is CPF 1-2022-016-NOPV.

**(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:**

**(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA-30 (incorporated by reference, see §195.3);**

**(i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2; and...**

IMTT-Bayonne failed to provide adequate records demonstrating that its eight breakout tanks, built post October 2, 2000, have adequate impoundments in accordance with section 22.11.2 of NFPA-30.

During the inspection, PHMSA requested records related to § 195.264(b)(1). IMTT-Bayonne stated there are eight breakout tanks which were built post October 2, 2000 - 4504, 5073, 5076, 5077, 5156, 5809, 5811, and 8559. IMTT-Bayonne provided the *Aboveground Storage Tanks Secondary Containment Volumes* (BOT Volume Record), the *East Side Plot Plan, dated 2018* and the *West Side Plot Plan, dated 2018* (Plot Plan Records). The volumes documented in the Plot Plan Records appeared to indicate that the eight breakout tanks had impoundments installed in accordance with section 22.11.2 of NFPA-30, but records supporting the calculations of these volumes were not provided. When PHMSA requested additional information, IMTT-Bayonne failed to produce any records or response supporting its calculations.

Therefore, IMTT-Bayonne failed to provide adequate records demonstrating that its eight breakout tanks, built post October 2, 2000, have adequate impoundments installed in accordance with section 22.11.2 of NFPA-30, as required by § 195.264(b)(1).

**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 ensure 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-Bayonne failed to follow its corrosion control procedures. Specifically, IMTT-Bayonne failed to follow its *Corrosion Manual, dated 04012021* (CM) for conducting its atmospheric corrosion monitoring inspections.

During the inspection, the PHMSA inspector requested records related to the most recent atmospheric corrosion monitoring inspections. IMTT-Bayonne stated there are (13) areas and (13) reports for atmospheric corrosion monitoring:

- 5<sup>th</sup> Street
- Bergen Point
- Curries
- Interconnects
- Packards
- Yard 1
- Yard 4
- Yard 4-A Hill
- Yard 4 – Flip
- Yard 5
- Yard 6
- Yard 8
- Yard 9

The PHMSA inspector reviewed the CM. The CM Section 9.2.2 stated in relevant part:

Procedures for visual inspection of surfaces are as follows:

1) Visually inspect all surfaces and assign a visual corrosion condition description as follows:

Rust (minor corrosion)

Pitting (potentially serious corrosion)

None (no corrosion identified)

2) If pitting is observed, complete a Leak, Damage, and Inspection Report.

3) Visually inspect all surfaces and assign a visual coating condition description as follows:

Adequate (coating prevents corrosion)

Inadequate (coating does not prevent corrosion and needs repaired prior to next inspection)

4) For "rust" or "pitting" corrosion or "inadequate" coating, quantify and describe the structure or coating damage."

When the PHMSA inspector asked where the required visual inspection descriptions and criteria were located on the associated records, IMTT-Bayonne discussed that the contractor does not utilize the criteria described in its procedures for characterizing the coating and corrosion conditions. Instead, the contractor uses their own criteria, and condition descriptions meeting CM Section 9.2.2 were not present in the records reviewed.

Therefore, IMTT-Bayonne failed to follow its corrosion control procedures for inspecting its pipelines for atmospheric corrosion, in accordance with § 195.402(a).

**3. § 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 ensure 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-Bayonne 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-Bayonne 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-Bayonne identified as its emergency procedures relative to § 195.402. IMTT-Bayonne stated that Appendix E of the OME contained the revision logs for 2019 and 2020, 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-Bayonne was unable to provide a response.

Therefore, IMTT-Bayonne 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).

#### **4. § 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-Bayonne 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).

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

Therefore, IMTT-Bayonne 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).

**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-Bayonne 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-Bayonne failed to maintain adequate external visual (monthly) breakout tank inspection records for 115 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 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-Bayonne breakout tanks for calendar years 2019 and 2020. IMTT-Bayonne 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. Instead, most were annotated with words such as “Pass” and “OOS”. Regarding the BOT Work Order Records, these records did not demonstrate an inspection of each individual breakout tank, but rather these records were associated with an inspection of each breakout tank area within the IMTT-Bayonne facility.

Therefore, IMTT-Bayonne failed to maintain adequate external visual (monthly) breakout tank inspection records for all 116 of its tanks for calendar year 2020, in accordance with § 195.404(c)(3).

6. **§ 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-Bayonne 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-Bayonne 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-Bayonne provided its *Operations, Maintenance and Emergency Manual, Version 1, dated August 2020* (OME). The 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-Bayonne 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.

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

7. **§ 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-Bayonne failed to maintain records demonstrating that protection provided against ignitions arising out of static electricity, lighting, and stray currents during operation and maintenance activities involving aboveground breakout tanks was done in accordance with API Recommended Practice 2003, 7<sup>th</sup> 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-Bayonne 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-Bayonne 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-Bayonne 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 APR RP 2003, as required by § 195.405(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-Bayonne 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-Bayonne did not perform external visual (monthly) breakout tank inspections for all 115 of its tanks 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-Bayonne breakout tanks for calendar years 2019 and 2020. IMTT-Bayonne 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-Bayonne failed to inspect all 115 of its steel atmospheric or low-pressure breakout tanks 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-Bayonne failed to implement and follow its Integrity Management program. Specifically, IMTT-Bayonne 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-Bayonne'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's IMP undergoes a formal annual review..."

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

Therefore, IMTT-Bayonne 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) ...

**(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-Bayonne 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-Bayonne failed to implement preventive and mitigative actions required pursuant to § 195.452(i)(1).

During the inspection, PHMSA reviewed IMTT-Bayonne'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-Bayonne did not provide any records for calendar years 2019 and 2020.

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

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

**(a) ...**

**(1) 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-Bayonne failed to maintain records that demonstrate compliance with the requirements of subpart F. Specifically, IMTT-Bayonne 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-Bayonne failed to produce any records for calendar years 2019 and 2020. Subsequently, PHMSA requested records of any leak evaluations ever performed and IMTT-Bayonne was unable to provide a response.

Therefore, IMTT-Bayonne failed to maintain records of an evaluation of the capability of its leak detection, 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-Bayonne 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-Bayonne stated that there is no corrosion control supervisor, but there is a corrosion control specialist. IMTT-Bayonne provided the *NJIT Transcript, CP2- Cathodic Protection Technician NACE Training Certificate* and the *OQ Report* (Supervisor Records). These records did not demonstrate how IMTT-Bayonne requires and verifies that its corrosion control supervisors are maintaining a thorough knowledge of the corrosion control procedures.

Therefore, IMTT-Bayonne 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?**

**(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-Bayonne 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-Bayonne failed to inspect 66 of its breakout tank cathodic protection systems during calendar years 2019 and 2020.

During the inspection, PHMSA requested records for breakout tanks cathodic protection systems within the scope of the inspection for calendar years 2019 and 2020. IMTT-Bayonne stated that not all of its tanks have cathodic protection and 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-Bayonne provided the *IMTT PHMSA Breakout Tanks Form* which indicated what tanks have do not have cathodic protection. When PHMSA requested additional information on inspections of the 66 breakout tanks with cathodic protection systems, IMTT-Bayonne did not have a response. When PHMSA requested additional information on the 49 breakout tanks without cathodic protection and how these tanks meet the requirements of § 195.573(d), IMTT-Bayonne did not provide further information or a response.

Therefore, IMTT-Bayonne 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 in 66 instances.

**14. § 195.589 What corrosion control information do I have to maintain?**

**(a) You must maintain current records or maps to show the location of—**

**(1) ...**

**(2) Cathodic protection facilities, including galvanic anodes, installed after January 28, 2002;**

IMTT-Bayonne failed to maintain records or maps showing the location of its cathodic protection facilities, including galvanic anodes, installed after January 28, 2002, in accordance with § 195.589(a)(2).

During the inspection PHMSA requested records for eight of IMTT-Bayonne's breakout tanks constructed after January 28, 2002. Of the eight breakout tanks, IMTT-Bayonne failed to provide records or maps of its cathodic protection facilities for four breakout tanks - tanks 4504, 5077, 5809 and 8559. When PHMSA requested further information, IMTT-Bayonne stated that they maintain a breakout tank farm plot plan and diagram of the Bayonne facility but have no further records. However, the *East Side Plot Plan, dated 2018* and *West Side Plot Plan, dated 2018*, and the diagram that IMTT-Bayonne provided did not contain details of the cathodic protection facilities installed on the breakout tanks.

Therefore, IMTT-Bayonne failed to maintain records or maps of its cathodic protection facilities that have been installed on aboveground breakout 4504, 5077, 5809 and 8559, in accordance with § 195.589(a)(2).

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 \$643,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$50,100
8	\$310,000
13	\$263,000
14	\$20,000

Warning Items

With respect to items 1, 3, 4, 5, 6, 7, 9, 10, and 12, 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 item 11, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to IMTT-Bayonne. 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 1-2022-017-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-Bayonne a Compliance Order incorporating the following remedial requirements to ensure the compliance of IMTT-Bayonne with the pipeline safety regulations:

- A. In regard to 11 of the Notice pertaining to the failure to maintain records of an evaluation of the capability of its leak detection system, IMTT-Bayonne must complete a leak detection evaluation on its associated pipeline system, in accordance with § 195.452(i)(3) and forward all documentation to the Director – Eastern Region within **90** days of receipt of the Final Order.
- B. It is requested (not mandated) that IMTT- Bayonne 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.