

NOVEMBER 13, 2013

Mr. John Lipinski
President
CVR Energy Incorporation
2277 Plaza Drive
Suite 500, Building B
Sugar Land, Texas 77479

Re: CPF No. 3-2012-5010

Dear Mr. Lipinski:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a reduced civil penalty of \$74,700. A partial payment of \$40,500 was received for Items 3 and 4 on June 8, 2012. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Linda Daugherty, Central Region Director, OPS
Mr. Robert Haugen, Executive VP of Refining Operations, Coffeyville Resources Crude Transportation, LLC, 2277 Plaza Drive, Suite 500, Building B, Sugar Land, Texas 77479

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

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In the Matter of)	
)	
Coffeyville Resources Crude Transportation, LLC)	CPF No. 3-2012-5010
)	
Respondent.)	
)	

FINAL ORDER

On April 25-29, 2011, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the Integrity Management Program (IMP) of Coffeyville Resources Crude Transportation, LLC (Coffeyville or Respondent) in Bartlesville, Oklahoma. In 2012, CVR Energy, Inc. formed a limited partnership, CVR Refining, LP, to own, operate and grow its petroleum refining and related logistic businesses. CVR Refining's petroleum business includes Coffeyville which operates a 50,000-barrel-per-day, crude oil gathering and trucking system located in Bartlesville and Wynnewood, Oklahoma, and Plainville and Winfield, Kansas.¹ The gathering system is comprised of more than 350 miles of company-owned pipelines and associated tankage and truck transportation facilities.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated May 11, 2012, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Coffeyville had violated 49 C.F.R. § 195.452 and proposed assessing a civil penalty of \$84,700 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Coffeyville responded to the Notice by letter dated June 14, 2012 (Response). The company contested the allegations for Items 1 and 2 but not Items 3 and 4. Respondent also offered additional information in response to the Notice and requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing and therefore has waived its right to one.

¹ <http://www.coffeyvillecrude.com/CVREnergyInc/> (last accessed September 3, 2013).

² <http://www.cvrrefining.com/RefiningOperations/index.html> (last accessed August 31, 2013).

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(4), which states:

§ 195.452 Pipeline integrity management in high consequences areas.

(a)

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(4) Criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis (see paragraph (h) of this section).

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(4) by failing to establish adequate criteria to determine remedial actions to address integrity issues raised by the assessment and information analysis. Specifically, the Notice alleged that Coffeyville did not perform sufficient verification and/or calibration activities for each of the 19 inline inspection (ILI) runs performed on its pipelines. PHMSA also alleged that Coffeyville did not document the size of the as-found anomalies to compare with ILI results to verify the accuracy of the ILI tool.

In its Response, Coffeyville argued that its IMP procedures comply with the regulations because the regulation does not include a standard for adequacy of remedial actions prompted by assessment and information analysis. Further, Coffeyville argued that §195.452(f)(4) does not require calibration digs or other verification activities, and Coffeyville's Integrity Management (IM) inspection protocol states, "an operator may implement a process by which called anomalies are excavated so that tool results may be validated."

While the regulations do not specifically require calibration digs, the cited provision requires that operators have criteria established for and perform "information analysis." In order to analyze the information provided by the tool, the operator must have a way to verify its accuracy. Operators typically analyze tool data through comparison of the anomaly as called by the tool and the actual anomaly. Coffeyville did not provide any information about it how it complied with the requirement that operators perform "information analysis."

Furthermore, the IMP regulations provide PHMSA with the authority to determine the adequacy of an operator's processes and their implementation, and Respondent's criteria were deficient in defining how ILI tool error and tolerances were considered in the criteria for remedial actions.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(f)(4) by failing to establish adequate criteria to address remedial actions and integrity issues raised by the assessment methods and information analysis.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(8), which states:

§ 195.452 Pipeline integrity management in high consequences areas.

(a)

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(8) A process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information (see paragraph (h)(2) of this section).

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(8) by failing to have a process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information. Specifically, the Notice alleged that one of the integrity management tasks addressed the qualification of individuals who review integrity assessments and information analysis. During the inspection, Respondent could not demonstrate the training or qualifications for its identified employees or the consultants who reviewed integrity results and performed the analyses. Respondent did not provide documentation to substantiate that the individuals had the necessary knowledge, skills and abilities to make recommendations on remedial actions.

In its Response, Coffeyville argued that the ILI vendor was qualified and that Coffeyville's employees have decades of pipeline experience that should qualify them to review the integrity assessment results. Respondent noted that Table 4.1 of Coffeyville's IM Plan fully contemplates the use of a consultant as part of the integrity management team. The identified task of performing an inspection and preparing a report are assigned to the consultant. The identified task of evaluating the inspection results is a shared responsibility between the consultant and the Respondent's pipeline maintenance foreman. Additionally, Respondent argued that the regulation does not require documentation of the qualifications. Nonetheless, Coffeyville included Table 4.1 with two employees and also listed consultants from TDW Pipeline Services and Integrity Solutions, Ltd. as the persons qualified to review integrity assessment results and develop remedial action plans. The Respondent also included the resumes and certificates documenting work experience, education, and training of the listed personnel.

Respondent's argument that the cited regulation does not require documentation of qualifications conflicts with the requirements of § 195.452(l)(1)(ii). This provision requires that "documents to support the decisions and analyses, including any modifications, justifications variances,

deviations, and determinations made . . .” be maintained for review during an inspection. Documentation of personnel qualifications is necessary to support IMP actions to demonstrate to PHMSA that decisions and analyses are performed by those with the requisite knowledge and skill. Therefore, the qualifications of the personnel tasked to perform the analyses fall within the scope of term "documents" as provided for in the regulation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(f)(8) by failing to have a process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information.

In its Response, Coffeyville did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(h) *What actions must an operator take to address integrity issues?*

(4) *Special requirements for scheduling remediation*— (i) *Immediate repair conditions.* An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in Section 451.6.2.2 (b) of ANSI/ASME B31.4 (incorporated by reference, see § 195.3). An operator must treat the following conditions as immediate repair conditions:

(C) A dent located on the top of the pipeline (above the 4 and 8 o'clock positions) that has any indication of metal loss, cracking or a stress riser.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h) by failing to schedule an immediate repair condition. Specifically, the Notice alleged that Coffeyville did not schedule and repair three dents identified to be immediate repair conditions during review of ILI results on September 8, 2008. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h) by failing to schedule an immediate repair condition.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(E), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(h) *What actions must an operator take to address integrity issues?*

(4) *Special requirements for scheduling remediation*--

(iii) *180-day conditions.* Except for conditions listed in paragraph (h)(4)(i) or (ii) of this section, an operator must schedule evaluation and remediation of the following within 180 days of discovery of the

condition:

(E) An area of general corrosion with a predicted metal loss greater than 50% of the nominal wall.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h) by failing to schedule a 180-day condition. Specifically, the Notice alleged that Coffeyville did not schedule and remediate three metal loss anomalies identified during review of ILI results from the September 8, 2008 ILI assessment of the 4" Bartlesville to Caney River Trap segment. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h)(4)(iii)(E) by failing to schedule a 180-day condition.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$84,700 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$22,100 for Respondent's violation of 49 C.F.R. § 195.452(f)(4), for failing to establish adequate criteria to address remedial actions and integrity issues raised by the assessment methods and information analysis. Respondent's failure to create adequate criteria to address remedial actions due to integrity issues raised by the assessment methods and information analysis could have threatened the integrity of the pipeline and high consequence areas. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$22,100 for violation of 49 C.F.R. § 195.452(f)(4).

Item 2: The Notice proposed a civil penalty of \$22,100 for Respondent's violation of 49 C.F.R. § 195.452(f)(8), for failing to have a process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information. Respondent argued in its Response that it did not require documentation of such qualifications; however, as discussed above, the regulations do require them. Nonetheless, since Respondent subsequently provided proof of the qualifications for the personnel reviewing the integrity assessment results, the civil penalty has been reduced. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,100 for violation of 49 C.F.R.

§ 195.452(f)(8).

Item 3: The Notice proposed a civil penalty of \$22,100 for Respondent's violation of 49 C.F.R. § 195.452(h)(4), for failing to schedule an immediate repair condition. Coffeyville neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Respondent has already paid the civil penalty for Item 3. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$22,100 for violation of 49 C.F.R. § 195.452(h)(4). A payment for this Item was received on June 8, 2012.

Item 4: The Notice proposed a civil penalty of \$18,400 for Respondent's violation of 49 C.F.R. § 195.452(h), for failing to schedule a 180-day condition. Coffeyville neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Respondent has already paid the civil penalty for Item 4. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$18,400 for violation of 49 C.F.R. § 195.452(h)(4)(iii)(E). A payment for this Item was received on June 8, 2012.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total reduced civil penalty of **\$74,700**. A partial payment of \$40,500 was received for Items 3 and 4 on June 8, 2012.

Payment of the remaining civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the remainder of the \$74,700 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. §§ 195.452(f)(4) and 195.452(f)(8), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 195.452(f)(4) (Item 1), Respondent developed criteria to determine remedial actions to address integrity issues raised by assessments and information analysis, and reevaluate the most current assessment reports for all pipelines. The plan and schedule, including a number of statistically established verification and/or calibration activities, was submitted to the Central Region office.
2. With respect to the violation of § 195.452(f)(4) (Item 1), Respondent excavated any condition that met the criteria for immediate conditions on all pipelines. Once exposed, each anomaly was cleaned to sound metal and appropriate measurements were documented. If the anomalies exceeded the predicted dimensions, the report was re-evaluated appropriately.
3. With respect to the violation of § 195.452(f)(8) (Item 2), Respondent had all personnel reviewing integrity assessment results and information analysis trained and qualified in accordance with the requirements of the Coffeyville IM Plan. The plan was submitted to the Central Region that described training and qualifications required and a schedule of the proposed training.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice are not included in this Order.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued