



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

12300 W. Dakota Ave., Suite 110  
Lakewood, CO 80228

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

**VIA E-MAIL TO MR. WAYNE LEIKER:**

February 6, 2023

Mr. Wayne Leiker  
Vice President  
Calumet Montana Refining, LLC  
1020 Smelter Avenue, NE  
Black Eagle, MT 59414

**CPF 5-2023-021-NOPV**

Dear Mr. Leiker:

From June 6, 2022, through June 10, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected your Bootlegger pipeline in Great Falls, Montana.

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

- 1. § 195.452 Pipeline integrity management in high consequence areas.**
  - (a) . . .**
  - (j) *What is a continual process of evaluation and assessment to maintain a pipeline integrity?***
  - (1) . . . .**

**(3) *Assessment intervals.* An operator must establish five-year intervals, not to exceed 68 months, for continually assessing the line pipe's integrity. An operator must base the assessment intervals on the risk the line pipe poses to the high consequence area to determine the priority for assessing the pipeline segments. An operator must establish the assessment intervals based on the factors specified in paragraph (e) of this section, the analysis of the results from the last integrity assessment, and the information analysis required by paragraph (g) of this section.**

Calumet Montana Refining, LLC (Calumet) failed to establish a five-year interval, not to exceed 68 months, for continually assessing the Bootlegger pipeline's integrity.<sup>1</sup> Specifically, during the inspection, Calumet failed to provide records to show that it inspected its Bootlegger pipeline between its 2015 and 2022 integrity assessments.<sup>2</sup>

**2. § 195.406 Maximum operating pressure.**

**(a) . . . .**

**(b) No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.**

Calumet failed to provide adequate controls and protective equipment to control the pressure of the Bootlegger pipeline within 110% of the operating pressure limit established under § 195.406(a). Specifically, during the inspection, PHMSA discovered that Calumet does not have the ability to control pipeline pressure within 110 percent of the established maximum operating pressure. The associated pressure control for this pipeline is owned and inspected by the upstream operator.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not 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

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<sup>1</sup> The Bootlegger pipeline is a pipeline that could affect a high-consequence area (HCA), as defined in § 195.450, and therefore must comply with the integrity management regulations set forth in § 195.452.

<sup>2</sup> See § 195.452(l)(1) (requiring operators to maintain for the useful life of the pipeline records that demonstrate compliance with § 195.452 requirements).

Further, Calumet did not receive a variance from the 5-year requirement from PHMSA pursuant to § 195.452(j)(4).

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 documents involved in this case and have decided not to propose a civil penalty assessment at this time.

With respect to Item number 2, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Calumet Montana Refining, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

#### Warning Item

With respect to Item 1, 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 this item. Failure to do so may result in additional enforcement action.

#### 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. Be advised that all material you submit in response to this enforcement action is subject to being 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 respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 5-2023-021-NOPV**, and for each

document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard  
Director, Western Region, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry  
PHP-500 G. Ogirima (#22-239515)  
Carlos Centurion, [carlos.centurion@calumetspecialty.com](mailto:carlos.centurion@calumetspecialty.com)

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Calumet Montana Refining, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of Calumet Montana Refining, LLC with the pipeline safety regulations:

- A. In regard to Item 2 of the Notice pertaining to overpressure protection, Calumet Montana Refining, LLC must install and send documentation to PHMSA of an overpressure protection device within 180 days of receipt of the Final Order.
  
- B. It is requested (not mandated) that Calumet Montana Refining, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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 infrastructure.