

September 2, 2021

VIA ELECTRONIC MAIL TO: thomas.nimbley@pfbenergy.com

Thomas Nimbley
Chairman and Chief Executive Officer
PBF Logistics LP
1 Sylvan Way, Second Floor
Parsippany, New Jersey 07054

Re: CPF No. 1-2021-002-NOPV

Dear Mr. Nimbley:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$46,000 against your subsidiary, Paulsboro Natural Gas Pipeline Company LLC. 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 electronic mail is effective upon the date of transmission as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA
Mr. Thomas J. McLane, Director – Regulatory Compliance, PBF Energy Inc.,
thomas.mclane@pfbenergy.com
Mr. Jim Fedena, Senior Vice President – Logistics, PBF Energy Inc.,
jim.fedena@pfbenergy.com

CONFIRMATION OF RECEIPT REQUESTED

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

In the Matter of)	
)	
Paulsboro Natural Gas Pipeline Company LLC,)	CPF No. 1-2021-002-NOPV
a subsidiary of PBF Logistics LP,)	
)	
Respondent.)	
)	

FINAL ORDER

From February 27, 2020 through October 2, 2020, 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 facilities and records of Paulsboro Natural Gas Pipeline Company LLC (PNGPC or Respondent), a subsidiary of PBF Logistics LP, in Gloucester, New Jersey and Delaware, Pennsylvania. PNGPC has a single 2.58-mile long pipeline running from another operator’s transmission line northwest of Philadelphia International Airport to the Paulsboro Refining Company refinery in Paulsboro, New Jersey.

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated February 5, 2021, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that PNGPC had violated 49 C.F.R. § 192.625(f) and proposed assessing a civil penalty of \$46,000 for the alleged violation. The warning item required no further action, but warned Respondent to correct the probable violation or face possible future enforcement action.

PNGPC responded to the Notice by letter dated March 5, 2021 (Response). The company did not contest the allegation of violation but provided an explanation of its actions and requested that the proposed civil penalty be eliminated. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, PNGPC did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.625(f), which states:

§ 192.625 Odorization of gas.

(a)

(f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable

The Notice alleged that Respondent violated 49 C.F.R. § 192.625(f) by failing to conduct periodic sampling of the gas in its pipeline using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. Specifically, the Notice alleged that PNGPC's form F-192.625, dated October 2015, indicated that gas odorant levels would be verified by sniff and/or laboratory analysis, and that PNGPC was unable to provide any records of instrumented sampling between 2017 and 2020 for its transmission pipeline.

Respondent did not contest this allegation of violation, provided an explanation, and requested withdrawal of the civil penalty, which is discussed in more detail below. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.625(f) by failing to conduct periodic sampling of combustible gases using appropriate instrumentation to determine the percentage of gas in the air at which the odor becomes readily detectable.

This finding of violation will be considered a prior offense 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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.¹

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; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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 \$46,000 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$46,000 for Respondent's violation of 49 C.F.R. § 192.625(f), for failing to conduct periodic sampling of the gas in its pipeline using an

¹ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. In its Response, PNGPC requested that PHMSA rescind the civil penalty because “PNGPC had procedures in place to assure the natural gas was being odorized, immediately revised its odorant sampling procedure and corrosion inspection forms as recommended by the inspector, has had no previous violations, and no impact to the environment associated with these issues.”

When proposing a civil penalty amount in this matter, PHMSA considered the above-listed assessment criteria, as supported by information in the Notice and the Pipeline Safety Violation Report (PSVR). I have reviewed those materials, the evidence in the case file, and Respondent’s explanations, and find the assessment criteria were properly considered and therefore the proposed penalty amount is appropriate.

With regard to good faith, I find that Respondent did not have a reasonable justification for its non-compliance. Although Respondent had procedures in place and written verification from another operator that the gas was odorized, Respondent did not actually follow its procedures or verify that the gas in its pipeline was properly odorized as required by the regulation using instrumented periodic sampling.

With regard to the degree of Respondent’s culpability, I find Respondent failed to comply with an applicable requirement. Although Respondent has now taken measures to correct the violation, those actions were taken after PHMSA had already identified the violation during an inspection and therefore do not warrant a lower civil penalty amount.

With regard to the history of Respondent’s prior offenses, I agree that Respondent did not have any prior violations in the five years preceding issuance of the Notice. This information was noted in the PSVR and was factored into the proposed civil penalty amount, which resulted in a proposed penalty that was lower than it would have been if Respondent had prior violations.

Finally, with regard to the gravity of the violation, I find that the violation occurred within a high consequence area (HCA), which warrants an elevated penalty. I reject the contention that the violation only minimally affected safety notwithstanding the fact that it did not negatively affect the environment. The importance of verifying that gas is properly odorized is critical for public safety to ensure a leak can be detected by persons with a normal sense of smell. This is even more critical in an HCA with higher population.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$46,000 for violation of 49 C.F.R. § 192.625(f).

Payment of the 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 (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$46,000 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.

WARNING ITEM

With respect to Item 2, the Notice alleged probable violation of Part 192, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 192.605(a) (**Item 2**) — Respondent's alleged failure to follow its manual of written procedures for conducting operations and maintenance activities by not recording grading of the atmospheric corrosion condition observed during a 2020 atmospheric corrosion inspection.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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, no later than 20 days after receipt of service of the Final Order by Respondent. Any petition submitted must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

September 2, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued