

December 10, 2018

Mr. Charlie Smith
Chief Executive Officer
Countrymark Cooperative Holding Corporation
225 South East Street, Suite 144
Indianapolis, Indiana 46202

Re: CPF No. 3-2018-5008

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Countrymark Refining and Logistics, LLC. It makes findings of violation and assesses a civil penalty of \$39,900. This is to acknowledge receipt of payment of the full penalty amount by wire transfer dated August 2, 2018. This enforcement action is now closed. Service of the Final Order by certified mail is effective upon the date of mailing 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. Allan C. Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Ash Titzer, Manager, Crude Gathering and Transportation, Countrymark Refining
and Logistics, LLC, 1200 Refinery Road, Mt. Vernon, Indiana 47620

CERTIFIED MAIL – RETURN 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)	
)	
Countrymark Refining and Logistics, LLC,)	
 a subsidiary of Countrymark Cooperative)	
 Holding Cooperation,)	CPF No. 3-2018-5008
)	
Respondent.)	
)	

FINAL ORDER

From March 14 through March 18, 2016, 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 Countrymark Refining and Logistics, LLC’s (Countrymark or Respondent) rural regulated gathering system in Mount Vernon, Indiana. Countrymark’s system consists of 22.48 miles of jurisdictional 12” and 16” crude-oil and 4.4 miles of 6” jurisdictional highly volatile liquids (HVL) pipeline.¹ Countrymark is a subsidiary of Countrymark Cooperative Holding Cooperation.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated July 3, 2018, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Countrymark had violated 49 C.F.R. §§ 195.571 and 195.573 and proposed assessing a civil penalty of \$39,900 for the alleged violations. The warning items required no further action, but warned the operator to correct the probable violations or face possible future enforcement action.

Countrymark responded to the Notice by letter dated July 20, 2018 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$39,900. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make findings of violation and to issue this final order without further proceedings.

¹ Pipeline Safety Violation Report (Violation Report), (July 3, 2018) (on file with PHMSA), at 1.

² Countrymark website, available at <https://www.countrymark.com/countrymark/aboutus/contactus.aspx> (last accessed September 28, 2018) See also, Bloomberg Countrymark Snapshot, available at <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=290862711> (last accessed September 28, 2018).

FINDINGS OF VIOLATION

In its Response, Countrymark 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. § 195.571, which states:

§ 195.571 What criteria must I use to determine the adequacy of cathodic protection?

Cathodic protection required by this subpart must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in paragraphs 6.2.2, 6.2.3, 6.2.4, 6.2.5 and 6.3 in NACE SP 0169 (incorporated by reference, *see* §195.3).

The Notice alleged that Respondent violated 49 C.F.R. § 195.571 by failing to comply with one or more applicable criteria and other considerations for cathodic protection (CP) contained in paragraph 6.2.2 of NACE [Standard Practice (SP)] 0169. Specifically, the Notice alleged that the 2013-2016 CP readings that Countrymark provided to PHMSA failed to demonstrate how voltage (IR) drop was considered in the CP criteria it used to determine if CP levels were adequate, as required by NACE SP 0169, section 6.2.2.1.1.³

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. § 195.571 by failing to consider IR drop in the CP criteria it used to determine if CP levels were adequate, as required by NACE SP 0169, section 6.2.2.1.1

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(c), which states, in relevant part:

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

(a)

(c) *Rectifiers and other devices.* You must electrically check for proper performance each device in the first column at the frequency stated in the second column.

Device	Check frequency
Rectifier.....	At least six times each calendar year, but with intervals not exceeding 2½ months....

³ NACE SP 0169 Section 6.2.2. Steel and Cast Iron Piping.

6.2.2.1- External corrosion control can be achieved at various levels of cathodic polarization depending on the environmental conditions. However, in the absence of specific data that demonstrate that adequate CP has been achieved, one or more of the following shall apply:

6.2.2.1.1.- A negative (cathodic) potential of at least 850 mV with the CP applied. This potential is measured with respect to a saturated copper/copper sulfate reference electrode contacting the electrolyte. Voltage drops other than those across the structure-to-electrolyte boundary must be considered for valid interpretation of this voltage measurement. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(c) by failing to monitor its external corrosion control provided by rectifiers at least six times each year, but with intervals not to exceed 2½ months. Specifically, the Notice alleged that Countrymark had 11 rectifier checks that exceeded the 2½ month interval from 2013-2016.

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. § 195.573(c) by failing to monitor its external corrosion control provided by rectifiers at least six times each year, but with intervals not to exceed 2½ months.

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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁴ 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; 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 \$39,900 for the violations cited above.

Item 3: The Notice proposed a civil penalty of \$19,100 for Respondent's violation of 49 C.F.R. § 195.571, for failing to consider IR drop in the CP criteria that it used to determine if CP levels were adequate, as required by NACE SP 0169, section 6.2.2.1.1. Countrymark neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$19,100 for violation of 49 C.F.R. § 195.571.

Item 4: The Notice proposed a civil penalty of \$20,800 for Respondent's violation of 49 C.F.R. § 195.573(c), for failing to monitor its external corrosion control provided by rectifiers at least six times each year, but with intervals not to exceed 2½ months. Countrymark neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,800 for violation of 49 C.F.R. § 195.573(c).

In summary, having reviewed the record and considered the assessment criteria for each of the items cited above, I assess Respondent a total civil penalty of **\$39,900**, which was paid in full by wire transfer on August 2, 2018.

⁴ These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

WARNING ITEMS

With respect to **Items 1, 2, and 5**, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.440(d)(2) (**Item 1**) — Respondent's alleged failure to include provisions in its public awareness program to educate the public, appropriate government organizations, and persons engaged in excavation-related activities on the possible hazards associated with unintended releases from hazardous liquid or carbon dioxide pipeline facility. Specifically, Respondent allegedly failed to provide sufficient information about potential hazards, such as fire and explosions, in its excavator and affected-public brochures in effect in March 2016. The Regional Director noted that Countrymark had revised and corrected its brochure on June 6, 2016, and thus no further action is required.

49 C.F.R. § 195.440(g) (**Item 2**) — Respondent's alleged failure to conduct its public awareness program in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area. Specifically, Respondent failed to evaluate whether a significant number and concentration of non-English speakers were in its area. The Regional Director noted that by December 29, 2016, Countrymark had corrected this issue by conducting a language survey and updating its public awareness plan to include frequencies for new language surveys and a threshold percentage for a significant non-English speaking population.

49 C.F.R. § 195.589(a)(2) (**Item 5**) — Respondent's alleged failure to maintain current records of maps to show the location of cathodic protection facilities, including galvanic anodes, installed after January 28, 2002. Specifically, Respondent allegedly failed to have anode bed locations identified on system drawings or other records. The Regional Director noted that on or before May 26, 2016, Countrymark had corrected this by adding latitudes and longitudes for anode beds to its drawings.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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

December 10, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued