

January 6, 2020

Mr. John Lipinski
Chief Executive Officer and President
CVR Refining, LP
2277 Plaza Drive
Suite 500
Sugar Land, Texas 77479

Re: CPF No. 3-2019-5021

Dear Mr. Lipinski:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Coffeyville Resources Crude Transportation, LLC. It makes one finding of violation and assesses a civil penalty of \$36,900. 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 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 Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Keith Kuehn, Vice President - Pipeline, Coffeyville Resources Crude Transportation,
LLC, 411 Northeast Washington Boulevard, Bartlesville, Oklahoma 74006

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)	
)	
Coffeyville Resources Crude Transportation, LLC,)	CPF No. 3-2019-5021
a subsidiary of CVR Refining, LP,)	
)	
Respondent.)	
)	

FINAL ORDER

From August 20-24 and 27-30, 2018, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted a pipeline safety inspection of records of Coffeyville Resources Crude Transportation, LLC (CRCT or Respondent), in Bartlesville, Oklahoma, and conducted on-site inspections of CRCT’s pipeline system, pump stations, and records in Oklahoma and Kansas. CRCT is a subsidiary of CVR Refining, LP, and operates an approximately 65,000-barrel-per-day crude-oil gathering and pipeline/trucking system in Oklahoma and Kansas. The gathering system is comprised of more than 350 miles of company-owned pipelines and associated tankage and truck transportation facilities.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated September 12, 2019, 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 CRCT had violated 49 C.F.R. § 195.573 and proposed assessing a civil penalty of \$36,900 for the alleged violation. The warning item required no further action but warned the operator to correct the probable violation or face possible future enforcement action.

CRCT responded to the Notice by letter dated October 11, 2019 (Response). The company did not contest the allegation, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced.

Respondent did not request a hearing and therefore has waived its right to one.

¹ CVR Refining, LP website, *available at* <http://www.cvrrefining.com/RefiningOperations/index.html> (last accessed December 16, 2019).

FINDING 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. § 195.573(e), which states:

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

(a) ...

(e) *Corrective action.* You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e) by failing to take corrective action to correct identified deficiencies on its corrosion-control system. Specifically, the Notice and Violation Report alleged that a review of CRCT's external corrosion-control inspection records found that CRCT had not completed corrective actions at three test points with low readings on non-integrity management pipe as required by § 195.401(b). Low readings (under 850 mV negative) were taken in 2016 and 2017 at CR 4670 North Side, CR 4601 South Side, and CR 4500 North Side. These deficiencies had not been corrected by the end of the following year.

In its Response, CRCT did not contest the allegation of violation, but did request that the penalty be reduced. The penalty will be discussed more fully below.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.573(e) by failing to take corrective action to correct identified deficiencies on its corrosion-control system.

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.² 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; 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

² These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$36,900 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$36,900 for Respondent's violation of 49 C.F.R. § 195.573(e), for failing to take corrective action to correct identified deficiencies on its corrosion-control system. In its response, CRCT contested the penalty for this Item and requested that it be reduced. CRCT based its request on the actions it had taken to implement a "comprehensive mitigation solution" to upgrade its corrosion protection system, with a total investment of \$313,000.³ While CRCT's actions are commendable, they were taken after PHMSA discovered the violation and in order to achieve compliance with Federal law. CRCT also provided no indication that the proposed penalty would impair its ability to remain in operation. I therefore decline to reduce the penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$36,900** for violation of 49 C.F.R. § 195.573(e).

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 \$36,900 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 a probable violation of Part 195, but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 195.589(c) (**Item 2**) — Respondent's alleged failure to maintain records of tests conducted along its Shidler line at eight test points in accordance with §195.573(a)(1), for at least five years.

³ Response, at 2-3.

CRCT presented information in its Response showing that it had taken certain actions to address the cited item. 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.

January 6, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued