

March 8, 2019

Mr. Timothy Go  
Chief Executive Officer  
Calumet Specialty Products Partners, LP  
2780 Waterfront Pkwy. E. Dr. Suite 200  
Indianapolis, IN 46214

**Re: CPF No. 5-2018-6014**

Dear Mr. Go:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Calumet Montana Refining, LLC. It makes findings of violation and assesses a civil penalty of \$77,400. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated August 6, 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: Director, Western Region, Office of Pipeline Safety, PHMSA

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	)	
	)	
Calumet Montana Refining, LLC,	)	CPF No. 5-2018-6014
a subsidiary of Calumet Specialty	)	
Products Partners, LP,	)	
	)	
Respondent.	)	

**FINAL ORDER**

From October 11, 2016, through October 13, 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 Calumet Montana Refining, LLC’s (CMR or Respondent), Bootlegger crude-oil pipeline system in Great Falls, Montana. CMR is a subsidiary of Calumet Specialty Products Partners, LP.<sup>1</sup> CMR has a crude-oil throughput capacity of approximately 9,800 barrels per day and markets gasoline, middle distillates, and asphalt to local markets in Washington, Montana, Idaho, and Alberta, Canada.<sup>2</sup>

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated June 14, 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 CMR had violated 49 C.F.R. §§ 195.420 and 195.428 and proposed assessing a civil penalty of \$77,400 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.

CMR failed to respond to the Notice in accordance with 49 C.F.R. §190.208, but paid the proposed civil penalty of \$77,400 by wire transfer on August 6, 2018. Failure to respond constitutes a waiver of CMR’s right to contest the allegations in the Notice. In addition, payment of the proposed civil penalty, in accordance with 49 C.F.R. § 190.208(a)(1), authorizes the Associate Administrator to make findings of violation and to issue this final order.

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<sup>1</sup> Calumet Montana Refining- About Us: History, available at <http://www.calumetspecialty.com/calumet-montana-refinery-about-us-history> (last accessed October 17, 2018).

<sup>2</sup> Calumet Montana Refining-About Us, available at <http://www.calumetspecialty.com/about-us/facilities/calumet-montana-refining> (last accessed October 22, 2018).

## FINDINGS OF VIOLATION

Respondent did not respond to the Notice that it violated 49 C.F.R. Part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b), which states:

**§ 195.420 Valve maintenance.**

(a)....

(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve at intervals not exceeding 7½ months, but at least twice each calendar year, to determine that it was functioning properly. Specifically, CMR had valve maintenance/inspection records for its mainline valve inspected on July 15, 2014, and April 24, 2015, but did not have any records or supporting evidence to show that its mainline valve was inspected twice in 2014.

Respondent did not respond to the Notice. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve at intervals not exceeding 7½ months, but at least twice each calendar year, to determine that it was functioning properly.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

**§ 195.428 Overpressure safety devices and overfill protection systems.**

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test, at intervals not exceeding 15 months, but at least once each calendar year, each overpressure safety device to determine that it was functioning properly, was in good mechanical condition, and was adequate from a standpoint of capacity and reliability of operation for the service in which it was used. Specifically, the Notice alleged that at the time of the inspection, CMR failed to have any records of its overpressure-protection inspections for 2014, 2015, and leading up to the August 2016 inspections. In addition, the Notice alleged that CMR failed to provide any completed inspection records for the rupture pin located at the refinery or the overfill devices on breakout tanks 201 and 202.

Respondent did not respond to the Notice. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test, at

intervals not exceeding 15 months, but at least once each calendar year, each overpressure safety device to determine that it was functioning properly, was in good mechanical condition, and was adequate from a standpoint of capacity and reliability of operation for the service in which it was used.

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.<sup>3</sup> 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 damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$77,400 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$36,000 for Respondent's violation of 49 C.F.R. § 195.420(b), for failing to inspect each mainline valve at intervals not exceeding 7½ months, but at least twice each calendar year, to determine that it was functioning properly. CMR did not respond to the Notice, and therefore 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 \$36,000 for violation of 49 C.F.R. § 195.402(b).

**Item 2:** The Notice proposed a civil penalty of \$41,400 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to inspect and test, at intervals not exceeding 15 months, but at least once each calendar year, each overpressure safety device to determine that it was functioning properly, was in good mechanical condition, and was adequate from a standpoint of capacity and reliability of operation for the service in which it was used. CMR did not respond to the Notice, and therefore 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 \$41,400 for violation of 49 C.F.R. § 195.428(a).

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 **\$77,400**, which amount was paid in full by wire transfer on August 6, 2018.

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<sup>3</sup> 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 3, 4 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. § 195.505(h) (**Item 3**) — Respondent’s alleged failure to provide appropriate training to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of the pipeline facility.

49 C.F.R. § 195.507(a) (**Item 4**) — Respondent’s alleged failure to maintain qualification records with the pertinent information regarding tasks being performed and the qualification methods being used.

49 C.F.R. § 195.507(b) (**Item 5**) — Respondent’s alleged failure to maintain records supporting an individual’s current qualifications while the individual was performing the covered task, and to retain records of prior qualification and records of individuals no longer performing covered tasks for a period of five years.

CMR did not respond to the Notice. However, during a follow-up visit to the facility on June 27, 2017, CMR demonstrated to PHMSA that it had taken certain actions to address the cited items. If PHMSA 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.

March 8, 2019

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued