

**NOTICE OF PROBABLE VIOLATION  
and  
PROPOSED CIVIL PENALTY**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

June 14, 2018

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

**CPF 5-2018-6014**

Dear Mr. Go:

On October 11 through 13, 2016, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code, inspected Calumet Montana Refining, LLC's, a subsidiary of Calumet Specialty Product Partners, LP, Bootlegger crude oil pipeline system in Great Falls, Montana.

As a result of the inspection, it is alleged that Calumet Montana Refining, LLC has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. **§195.420 Valve Maintenance.**  
**(b) Each operator shall, at intervals not exceeding 7 ½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.**

Calumet Montana Refining, LLC (CMR) failed to inspect each mainline valve at intervals not exceeding 7 ½ months, but at least twice each calendar year, to determine that it was functioning properly in accordance with 49 C.F.R. §195.420(b). At the time of the inspection, CMR had valve maintenance/inspection records for the mainline valve inspected on July 15, 2014 and April 24, 2015. However, CMR had no valve inspection records or other supporting evidence to show that valve maintenance was conducted at least twice in calendar year 2014. Thus, CMR did not perform mainline valve maintenance every 7 ½ months, but at least twice in calendar year 2014 to ensure it was functioning properly, in violation of 49 C.F.R. §195.420(b).

2. **§195.428 Overpressure safety devices and overfill protection systems.**  
**(a) Except as provided in paragraph (b) of this section, each operator [A person who owns or operates pipeline facilities] 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.**

CMR failed to inspect and test 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 at intervals not exceeding 15 months, but at least once each calendar year in accordance with 49 C.F.R. §195.428(a). At the time of the inspection, CMR did not have any records for its overpressure protection inspections for 2014 and 2015 leading up to the August 2016 inspection. CMR failed to provide any completed inspection records for the rupture pin located at the refinery and the overfill devices on breakout tanks 201 and 202. Thus, CMR did not perform the overpressure device inspection at intervals not exceeding 15 months, but at least once each calendar year to ensure it was functioning properly, in violation of 49 C.F.R. §195.428(a).<sup>1</sup>

On June 27, 2017 PHMSA again visited the facility and CMR provided inspection records for the overfill and overpressure safety devices dated May 4, 2017 and documentation for the MOP of Front Range.

3. **§195.505 Qualification program.**  
**(h) After December 16, 2004, provide training, as appropriate, 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 pipeline facilities.**

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<sup>1</sup> During the inspection, CRM personnel stated that while preparing for the PHMSA inspection, they discovered these inspections were not being completed on overpressure devices. Violation Report at pg. 13 of 42.

CMR failed 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 in accordance with 49 C.F.R. §195.505(h).

Interviews of CMR personnel revealed that CMR had limited, qualified individuals performing covered tasks. The unqualified and unsupervised individuals performing qualified tasks, as identified in the CMR Operation Qualification Written Program and Part 195 Subpart G, did not have the requisite training to ensure that they had the necessary knowledge and skills to perform these tasks in a manner that ensures the safe operation of the pipeline. CMR presented no training records or other substantiating evidence to demonstrate that these individuals were appropriately trained, and had the requisite knowledge and skills to abide by its written qualification program. During the inspection, CMR personnel admitted the company's need to get staff qualified. Thus, by not providing appropriate training to ensure that the individuals performing covered tasks had the necessary knowledge and skills to perform the tasks in a manner that ensures safety, CMR violated 49 C.F.R. §195.505(h).

On June 27, 2017 PHMSA visited the facility and CMR provided PHMSA with a schedule and documentation for the training it had conducted after PHMSA's initial inspection, including qualification records for individuals contracted to conduct the training and those performing covered tasks.

**4. §195.507 Record Keeping.**

**Each operator shall maintain records that demonstrate compliance with this subpart.**

**(a) Qualification records shall include:**

**(1) Identification of qualified individual(s);**

**(2) Identification of the covered tasks the individual is qualified to perform;**

**(3) Date(s) of current qualification; and**

**(4) Qualification method(s).**

CMR failed to provide qualification records with the pertinent information on tasks being performed and methods used to obtain the qualification for individuals in accordance with 49 C.F.R. §195.507(a). Interviews of CMR personnel confirmed that CMR was not maintaining requisite qualification records that included the identification of covered tasks of individuals who were qualified to perform and the qualification methods being used. Consequently, by not maintaining complete qualification records to ensure that individuals were qualified to perform covered tasks and methods per a written plan, CMR violated 49 C.F.R. §195.507(a).

After the inspection, on June 27, 2017 PHMSA visited the facility and was provided with a complete set of qualification records, including identification of covered tasks individuals were qualified to perform and the qualification methods used.

**5. §195.507 Record Keeping.**

**Each operator shall maintain records that demonstrate compliance with this subpart.**

**(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.**

CMR failed to provide records to support an individual's current qualification while the individual was performing the covered task, and records of prior qualification of individuals no longer performing covered tasks for the past five years in accordance with 49 C.F.R. §195.507(b). At the time of the inspection, CMR could only provide one incomplete record. The remaining required records of current and past operator qualifications were not available to PHMSA. Interviews of CMR personnel confirmed that CMR was not maintaining records of current individual qualifications, and prior qualification of individuals. By not maintaining proper records of current and prior qualification of individuals performing covered tasks, CMR violated 49 C.F.R. §195.507(b).

After the inspection, on June 27, 2017 PHMSA visited the facility and was provided with the proper records of current and prior qualification of individuals performing covered tasks.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$77,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$36,000
2	\$41,400

Warning Items

With respect to Items 3-5, 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 these items. 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 Compliance Proceedings*. Please refer to this document and note the response

options. All material you submit in response to this enforcement action may be 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 submit written comments, or request a hearing under 49 CFR § 190.211. 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 the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2018-6014** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Kim West  
Director, Western Region  
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Response Options for Pipeline Operators in Compliance Proceedings*

cc: PHP-60 Compliance Registry  
PHP-500 A. Ceartin (#153734)  
Mr. Wayne Leiker, VP Montana Refining, Calumet Montana Refining, LLC,  
1900 10<sup>th</sup> Street NE, Great Falls, Montana 59404