

January 22, 2024

VIA ELECTRONIC MAIL TO: kakuehn@cvrenergy.com

Keith Kuehn
Vice President, Crude Transportation
Coffeyville Resources Crude Transportation, LLC
P.O. Box 3516
411 N.E. Washington Boulevard
Bartlesville, Oklahoma 74006

Re: CPF No. 3-2022-058-NOPV

Dear Mr. Kuehn:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws two of the allegations of violation, makes other findings of violation, and assesses a reduced civil penalty of \$55,200. It further finds that Coffeyville Resources Crude Transportation, LLC has completed the actions specified in the Notice to comply with the pipeline safety regulations. When the civil penalty has been paid, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt 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. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Blake Record, Safety Specialist – DOT Pipeline, Coffeyville Resources Crude
Transportation, LLC, brecord@cvrenergy.com

Mr. Ronald McGill, DOT Compliance Primary, Coffeyville Resources Crude
Transportation, LLC, rmcgill@cvrenergy.com
Ms. Janice T. DeVelasco, P.E., Vice President – Environmental, Health, and Safety,
Coffeyville Resources Crude Transportation, LLC, jdevelasco@cvrenergy.com

CONFIRMATION OF RECEIPT REQUESTED

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

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In the Matter of)	
)	
Coffeyville Resources Crude Transportation, LLC,)	CPF No. 3-2022-058-NOPV
)	
Respondent.)	

FINAL ORDER

From August 26 to 30, 2019, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected Coffeyville Resources Crude Transportation, LLC’s (Coffeyville or Respondent) records for Control Room Management (CRM) in Houston, Texas. At the time of the inspection, Coffeyville pipeline assets were controlled by a third-party control room identified as the Remote Operations Center (ROC). From July 22, 2019, to October 1, 2021, the ROC was owned by LineStar Integrity Services, LLC. Presently, Everline Automation owns the ROC and controls the Coffeyville assets. Coffeyville’s pipeline system includes over 900 miles of pipelines transporting crude oil.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated September 14, 2022, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order, which was amended on the same date by issuance of an Amended Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice).¹ In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Coffeyville had committed five violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$141,100 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

After requesting and receiving an extension of time to respond, Coffeyville responded to the Notice by letter dated October 31, 2022 (Response). Coffeyville contested several of the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be eliminated. Coffeyville met with the Director on April 11, 2023, and provided a supplemental response on April 28, 2023, with supporting documentation (Supplemental Response). Respondent did not request a hearing and therefore has waived its right to one.

¹ The Director issued the amended Notice to correct the proposed civil penalty.

FINDINGS 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. § 195.444(c), which states:

§ 195.444 Leak detection.

(a)

(c) *CPM leak detection systems.* Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline must comply with API RP 1130 (incorporated by reference, *see* § 195.3) in operating, maintaining, testing, record keeping, and dispatcher training of the system.²

The Notice alleged that Respondent violated 49 C.F.R. § 195.444(c) by failing to ensure the CPM leak detection system installed on its hazardous liquid pipeline complied with API RP 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system. Specifically, the Notice alleged that Coffeyville failed to address the requirements in sections 6.2.6, 6.3, 6.5, and 6.6 of API RP 1130 for its Atmos CPM system.

In its Response, Coffeyville did not contest Item 1. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.444(c) by failing to ensure the CPM leak detection system installed on its hazardous liquid pipeline complied with API RP 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(f)(1), which states:

§ 195.446 Control room management.

(a)

(f) *Change management.* Each operator must assure that changes that could affect control room operations are coordinated with the control room personnel by performing each of the following:

(1) Implement section 7 of API RP 1168 (incorporated by reference, *see* § 195.3) for control room management change and require coordination between control room representatives, operator's management, and associated field personnel when planning and implementing physical changes to pipeline equipment or configuration;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(f)(1) by failing to ensure changes that could affect control room operations are coordinated with the control room personnel by implementing section 7 of API RP 1168. Specifically, the Notice alleged that when implementing the Atmos leak detection system, Respondent failed to follow its CRM ROC procedures and § 195.446(f)(1), which required documenting management of change (MOC)

² In a final rule published October 1, 2019, PHMSA reorganized the requirements of § 195.444 into paragraphs (a) and (c), and added a new provision in paragraph (b). Pipeline Safety: Safety of Hazardous Liquid Pipelines, Final Rule, 84 Fed. Reg. 52260, 52289 (Oct. 1, 2019).

using Form 11-15, to include: the reason for the change, authority for approving changes, analysis of implementation, acquisition of required work permits, documentation, communication of change to affected parties, time limitations, and qualification of staff. The Notice alleged that PHMSA requested Coffeyville provide MOC documentation and a completed Form 11-15 for implementing the leak detection system, but Coffeyville was unable to provide documentation to demonstrate compliance with its procedures or § 195.446(f)(1).

In its Response, Coffeyville contested the alleged violation in Item 2, arguing that it coordinated with the ROC during transition to the Atmos leak detection system, developed specific procedures for change management, and prepared MOC notification documents, such as MOC Form 11-15 (dated 9/17/2018) and an MOC Notification document (dated 5/17/2018). Coffeyville provided copies of the referenced documents. In its Supplemental Response, Coffeyville provided additional records, including an MOC request form for the Natoma system (dated 6/5/2018). Respondent contended these records demonstrate it was in compliance and requested that the item be reduced to a warning because any potential deviations from the regulation or its procedures were insignificant.

After a thorough review of the record, I find that the documentation and records submitted by Respondent are insufficient to demonstrate compliance with MOC requirements when implementing the Atmos leak detection system. Respondent's CRM ROC procedures and § 195.446(f)(1) required, at a minimum, that Respondent document MOC when implementing the leak detection system including: the reason for the change, authority for approving changes, analysis of implementation, acquisition of required work permits, documentation, communication of change to affected parties, time limitations, and qualification of staff. When reviewing the submitted Form 11-15 (dated 9/17/2018), that record identified only general changes to operational control (e.g., "ROC will now possess sole ability to remotely control the CVR Pipeline system"), without any specific mention of implementing the leak detection system. That form and other records submitted by Respondent for this Item fail to document all of the following as required when implementing the Atmos leak detection: the reason for the change, authority for approving changes, analysis of implementation, acquisition of required work permits, documentation, communication of change to affected parties, time limitations, and qualification of staff. Therefore, I find Respondent did not comply with its procedures and § 195.446(f)(1).

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(f)(1) by failing to ensure that changes that could affect control room operations are coordinated with the control room personnel by implementing section 7 of API RP 1168 when implementing a leak detection system.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(f)(2), which states:

§ 195.446 Control room management.

(a)

(f) *Change management.* Each operator must assure that changes that could affect control room operations are coordinated with the control room personnel by performing each of the following:

(1)

(2) Require its field personnel to contact the control room when emergency conditions exist and when making field changes that affect control room operations.

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(f)(2) by failing to ensure changes that could affect control room operations are coordinated with the control room personnel by requiring its field personnel to contact the control room when emergency conditions existed and when making field changes that affected control room operations. Specifically, the Notice alleged that Coffeyville personnel failed to coordinate and communicate with the control room when making field changes that affected the control room on August 19 and 20, 2019. On August 19, 2019, the Notice alleged, a pump was down for on-site testing, but the controller was not aware of this action until contacting field personnel. On August 20, 2019, the Notice alleged emergency shutdown devices were tested in the field without prior control room notification.

In its Response, Coffeyville contested the alleged violation in Item 3, arguing it did coordinate and communicate with the control room when the field changes were made. On August 19, 2019, Coffeyville stated the control room operator on duty was aware that operator personnel were onsite for a set point test. On August 20, 2019, Coffeyville stated the station testing was a collaboration between operator personnel and control room operators and therefore the on-duty controller was aware and participated in the testing. Coffeyville provided evidence of communications between control room personnel and operator personnel on August 19 related to a set point test. Coffeyville also clarified that the control room operator notified operator personnel of a shut valve, as required by the procedures, and not because the control room operator was unaware of the set point testing. Similarly, Coffeyville provided evidence of communication between control room personnel and operator personnel on August 20 related to station testing. Coffeyville indicated that the on-duty controller participated in the testing, and therefore was in communication with operator personnel.

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended withdrawing the alleged violation of § 195.446(f)(2).

Based upon the foregoing, I hereby order that Item 3 be withdrawn. Respondent is warned that failure to maintain records demonstrating compliance may result in potential future enforcement.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(1), which states:

§ 195.446 Control room management.

(a)

(h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1) Responding to abnormal operating conditions likely to occur

simultaneously or in sequence;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(1) by failing to establish a controller training program that included responding to abnormal operating conditions (AOCs) likely to occur simultaneously or in sequence. Specifically, the Notice alleged that Coffeyville failed to develop a list of AOCs that are likely to occur simultaneously or in sequence and did not have these elements identified as part of any training program conducted for controllers.

In its Response, Coffeyville contested the allegation of violation in Item 4, arguing that its training program included responding to AOCs likely to occur simultaneously or in sequence. Coffeyville stated that all ROC controllers were trained and tested on scenarios involving sequential AOCs and that specific training exam questions on sequential AOCs were identified as question numbers 5, 7, and 11. Respondent provided documentation to support its position. In its Supplemental Response, Respondent contended the records demonstrate it was in substantive compliance and requested that the item be reduced to a warning. Alternatively, Coffeyville argued the penalty should be reduced, which I address below in the civil penalty section.

After a thorough review of the record, I find that while Respondent's training program included responding to some AOCs, the program failed to include training on all AOCs likely to occur simultaneously or in sequence. Section 10.2 of the CRM ROC procedures stated that AOC training includes "responding to abnormal operating conditions likely to occur simultaneously or in sequence" The CRM ROC procedures did not otherwise list the relevant AOCs or include any additional details. The ROC Controller-CVR Pipeline System Training Exam, question numbers 5, 7, and 11, asked only about responding to several AOCs (e.g., unexpected valve closures and leak alarms), rather than the range of AOCs that could be experienced by the ROC controllers operating Respondent's pipeline system. Those third-party controllers may potentially also control other operators' systems from the same console and may experience multiple AOCs. PHMSA has previously determined that a failure to list AOCs constitutes a violation of § 195.446(h)(1).³ As noted previously, operators cannot effectively conduct training without a complete list of AOCs likely to occur simultaneously or in sequence.⁴

Accordingly, after considering all of the evidence, I find that Coffeyville violated 49 C.F.R. § 195.446(h)(1) by failing to establish a controller training program that included responding to AOCs likely to occur simultaneously or in sequence.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(j)(1), which states:

§ 195.446 Control room management.

(a)

(j) *Compliance and deviations.* An operator must maintain for review during inspection:

(1) Records that demonstrate compliance with the requirements of this

³ Freeport-McMoRan Oil & Gas, Final Order, CPF No. 5-2021-013-NOPV, 2021 WL 5494048 (Nov. 1, 2021).

⁴ *Id.*, at 3.

section;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(j)(1) by failing to maintain records that demonstrate compliance with § 195.446. Specifically, the Notice alleged that Coffeyville failed to provide records demonstrating compliance with several requirements of § 195.446(e) and (f) related to alarm management and MOC. For example, the Notice alleged that Respondent failed to document compliance using *Form 11-10, Monthly Alarm Review* and *Form 11-16, Alarm Deficiencies*, as required by section 11 of its CRM ROC procedures. The Notice also alleged that Respondent failed to maintain records to demonstrate controllers had reviewed MOC email documentation before taking shifts regarding changes that had or would be occurring on the console, and that records were not provided that indicated when training was required as the result of a change, as required by section 7 of the CRM ROC procedures.

In its Response, Coffeyville contested the alleged violation in Item 5, arguing that it maintained the requisite documents. Coffeyville asserted it maintained documentation with the required alarm management information, although it acknowledged the information was not explicitly labeled as noted in its procedures (i.e., Form 11-10 and 11-16). With respect to MOC, Coffeyville asserted it maintained and provided the requisite documentation. In its Response and Supplemental Response, Coffeyville provided records to support its position, including two “Monthly Alarm Reviews,” that included alarm metrics such as alarms inhibited, points taken off scan, false alarms, and forced or manual alarms. The records also provide additional details on alarm deficiencies, such as the specific alarm, date corrected, and additional notes. In addition, Coffeyville provided records related to MOC, including *Form 11-15, Management of Change*. Coffeyville also provided email records demonstrating that oncoming controllers reviewed MOC email documentation before taking shift regarding changes that had or would be occurring on the console.

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended withdrawing the alleged violation of § 195.446(j)(1).

Based upon the foregoing, I hereby order that Item 5 be withdrawn. Respondent is warned that failure to maintain records demonstrating compliance may result in potential future enforcement.

The findings of violation in this Final Order 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.⁵

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I

⁵ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

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 \$141,400 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$36,200 for Respondent's violation of 49 C.F.R. § 195.446(f)(1) for failing to ensure changes that could affect control room operations are coordinated with the control room personnel by implementing section 7 of API RP 1168 when Respondent implemented a leak detection system. Respondent argued there is no basis for a penalty.

Reviewing the record, I find the civil penalty amount proposed in the Notice was based on the criteria factors listed above, as described more fully in the Violation Report. With respect to the nature and circumstances of this violation, the Violation Report noted Respondent failed to conduct a required activity and the violation was discovered by PHMSA. With respect to the gravity of this violation, the Violation Report noted pipeline safety was minimally affected. With respect to culpability and good faith, the Violation Report noted that Respondent failed to comply with an applicable requirement and there was no reasonable justification for the non-compliance. I find each of these considerations was proper based on the evidence. Therefore, I conclude the record supports the civil penalty amount proposed in the Notice.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$36,200 for violation of 49 C.F.R. § 195.446(f)(1).

Item 3: The Notice proposed a civil penalty of \$36,200 for Respondent's alleged violation of 49 C.F.R. § 195.446(f)(2). Since this alleged violation has been withdrawn, the proposed penalty is not assessed.

Item 4: The Notice proposed a civil penalty of \$36,200 for Respondent's violation of 49 C.F.R. § 195.446(h)(1) for failing to establish a controller training program that included responding to AOCs likely to occur simultaneously or in sequence. Respondent asserted the penalty should be reduced because it had only one prior offense in the past five years and based on Respondent's "good faith efforts to comply with the training requirements."⁶

With respect to the number of prior offenses, Part C of the Pipeline Safety Violation Report included a chart of Respondent's prior offenses within the five-year period preceding issuance of the Notice. The chart included 12 total offenses, one for each finding of violation in two final orders (CPF No.'s 3-2016-5006 and 3-2019-5021) issued since September 14, 2017, or the five-year period preceding issuance of the Notice. This information was considered and incorporated into the calculation of the civil penalty. Therefore, the civil penalty accurately reflects Respondent's history of prior offenses.

⁶ Supplemental Response, at 3.

With respect to good faith, in a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director agreed that Respondent had exhibited good faith in attempting to achieve compliance and recommended a corresponding reduction to the penalty. Having considered Respondent's efforts to include training exam questions on sequential AOCs, I find that a penalty reduction is warranted.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a reduced civil penalty of \$19,000 for violation of 49 C.F.R. § 195.446(h)(1).

Item 5: The Notice proposed a civil penalty of \$32,800 for Respondent's alleged violation of 49 C.F.R. § 195.446(j)(1). Since this alleged violation has been withdrawn, the proposed penalty is not assessed.

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 **\$55,200**.

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. 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 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.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for a violation of 49 C.F.R. § 195.444(c). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

With respect to the violation of § 195.444(c) (**Item 1**), Respondent has updated its CRM ROC procedures to address the requirements in sections 6.2.6, 6.3, 6.5, and 6.6 of API RP 1130.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

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. The written petition must be received no later than 20 days after receipt 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 22, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued