

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

VIA ELECTRONIC MAIL TO: kakuehn@cvrenergy.com; brecord@cvrenergy.com; mlcogdill@cvrenergy.com

September 14, 2022

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

CPF 3-2022-058-NOPV

Dear Mr. Kuehn:

From August 26 to August 30, 2019, 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 (U.S.C.), inspected Coffeyville Resources' (CVR) records for Control Room Management (CRM) in Houston, Texas.

At the time of the inspection, CVR assets were determined to be operated by a third party control room identified as the Remote Operations Center (ROC). Since the time of the inspection, ROC had been acquired two times by different companies: From July 22, 2019 to October 1, 2021, LineStar Integrity Services, LLC; and from October 1, 2021 to present Everline Automation. At the time of the issuance of this letter, ROC was part of the Everline control room located in Houston, Texas, but still operated the CVR assets. However, for clarity in this letter, and, as a result of the inspection documentation, the ROC/Everline control room and associated procedures will be called "ROC."

As a result of the inspection, it is alleged that CVR has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 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.***

CVR failed to ensure the CPM leak detection system complied with API RP 1130 in operating, maintaining, testing, record keeping, and dispatcher training of the system. Specifically, CVR failed to address the requirements or considerations of API RP 1130, Sections 6.2.6 Test Records, 6.3 Operating Issues, 6.5 Controller Training and Retraining, and 6.6 Documentation.

CVR, through the ROC control room, has implemented a CPM system called Atmos Pipe on its PHMSA-regulated assets. Atmos Pipe is identified to be compliant with API RP 1130. CVR, through ROC, had contracted with Atmos for assistance on certain aspects of the CPM maintenance, as identified in the Atmos Operations and Maintenance Manual CVR document. However, CVR maintains the instrumentation and equipment located at and between pipeline facilities required for the CPM system. It was not clear in procedures how the operations, maintenance, testing, record keeping, and dispatcher training would be addressed.

API 1130 Section 6.2.6, Test Records, states that “[t]he pipeline company or operator policy will dictate the requirements for documentation of tests.” However, this information was not available from CVR’s documentation. The only information associated with tests was identified by Atmos in the Operations and Maintenance manual, but this manual did not identify CVR’s requirements for the tests. This document did not describe the type of test that was done (simulated a leak or performed a liquid withdrawal, as example) or what was required of the test from CVR’s perspective.

API 1130 Section 6.3, Operating Issues, states that “[f]or an operating CPM system, the following issues need to be considered:” 6.3.1 Security, 6.3.2 Parameter Changes, 6.3.3 Pipeline System Maintenance Activities. Documentation provided did not identify how any of these had been considered by CVR. While Section 5 of the document titled *ATMOS International, Operation and Maintenance Manual, Atmos Pipeline and Atmos Leak Detection System, CVR pipelines*, dated December 3, 2018, identified various aspects of maintenance, it did not identify what specific actions would be performed by CVR personnel and/or ROC personnel. Records were not found to exist that document what is being done for security, parameter changes, or pipeline system maintenance by CVR and/or ROC personnel regarding the CPM system.

API 1130 Section 6.5, Controller Training and Retraining, states that “[t]he users of the CPM system (*i.e.* the Pipeline Controllers) and any CPM support staff require appropriate CPM training. CPM alarms may be the most complex type of alarm experienced by the Pipeline Controller. Specific training and reference material is necessary to prepare the Pipeline Controller to adequately recognize and respond to these alarms. This requires both a knowledgeable perspective on the alarms themselves as well as the nature of the alarms.” However, records were not provided that evidenced CPM training of controllers or other staff had occurred.

API 1130 Section 6.6, CPM Documentation, provides a list of considerations regarding the documentation for each pipeline system upon which CPM was employed. Records were not available to demonstrate that CVR had performed the requisite considerations.

At the time of the inspection, records or other forms of documentation used by CVR and ROC were not available to demonstrate compliance with the § 195.444 in operating, maintaining, testing, record keeping, and dispatcher training of the system.

2. § 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; and

CVR failed, when implementing a leak detection system, to follow its CRM ROC procedures regarding change management and the requirements of § 195.446(f)(1), which requires each operator to assure that changes that could affect control room operations are coordinated with the control room personnel. Specifically in CVR's CRM ROC, Section 7.3 MOC [management of change] Process states that "MOC documentation will include the following:

- 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 (temporary)
- Qualification of Staff."

CVR's CRM ROC procedure further states "[a]ll MOC activities must be thoroughly documented using Form 11-15 Management of Change and maintained in the control room management record keeping files." In December of 2018, ROC had implemented all or portions of the CVR CRM ROC Atmos Leak Detection system. PHMSA requested to see the MOC documentation associated with the leak detection system and the completed Form 11-15. The Atmos vendor provided documentation for Operation and Maintenance of the system regarding the leak detection system, but nothing regarding the MOC documentation as required by CVR's CRM ROC procedures was provided or available. ROC personnel acknowledged that the MOC

process had not been followed as described by the CVR CRM ROC procedures and stated that the noncompliance was attributed to personnel changes with the company.

3. § 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.**

CVR field personnel failed to contact the control room when emergency conditions existed and when making field changes that affected control room operations. PHMSA reviewed CVR Daily Shift logs from 8/19/2019 and 8/20/2019 for both day and night shifts. Documentation did not indicate that coordination and communication with the control room in advance of making field changes that affect the control room had occurred.

During the inspection, CVR verbally described the process for exchanging information with a controller prior to maintenance activities occurring in the field. On the day shift before maintenance occurs in the field, field personnel and the controller have a conference call. In that conference call, the maintenance activities planned for the day by location are discussed. The controller records this information in the shift record. However, on 8/19/2019 and 8/20/2019, some maintenance activities occurred in the field that affected the control room and were not coordinated during the morning conference call with field operations nor were these actions communicated in advance to the control room.

On 8/19/2019, day shift records indicated that the controller contacted the Coffeyville Station field personnel stating that a pump was down. The field personnel informed the controller that this was for on-site testing. The controller was unaware of these actions until contacting the field as indicated in the shift log.

On 8/20/2019, the shift logs indicated that the Emergency Shutdown Devices (ESDs) were tested at Brothers, Kelley, and Hooser stations, but prior control room notification was not recorded in the shift logs as a result of the morning meeting and nothing in the shift log indicated that coordination with the control room occurred prior to the ESD tests.

During the PHMSA inspection, CVR was unable to provide documentation for 8/19/2019 and 8/20/2019 to confirm coordination of activities between the field and control room existed for Coffeyville testing affecting a station pump and Brothers, Kelley, and Hooser ESD testing.

4. § 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;

CVR failed to establish a controller training program that included responding to abnormal operating conditions (AOCs) likely to occur simultaneously or in sequence. CVR did not have a list of AOCs that are likely to occur simultaneously or in sequence, and did not have these elements identified as part of the training program, as required by § 195.446(h)(1).

During the PHMSA inspection, CVR was unable to produce any training records or other corroborating evidence to demonstrate that it was conducting controller training for responding to AOCs likely to occur, simultaneously or in sequence.

5. § 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 section; and

CVR failed to maintain records that demonstrate compliance with several requirements of § 195.446. First, records did not exist to demonstrate compliance with § 195.446(e)(6). CVR CRM procedure, Section 11, Forms, required that forms identified in that section will be used for the execution of the CRM plan. *Form 11-10, Monthly Alarm Review*, was included in Section 11. This form was not used to document the requirements of § 195.446(e)(2) and nothing else was identified in the procedure to be used for the record to document the CVR monthly alarm review.

Secondly, while *Form 11-16, Alarm Deficiencies*, was referenced in Section 11, Forms, of CVR's CRM plan, and specifically identified in Section 8.10.6, Deficiencies, this form was not used at the time of the inspection to track resolution of those deficiencies identified in §§ 195.446(e)(1) through (e)(5).

Records were also not available to demonstrate compliance with § 195.446(f), Section 7.4 or Section 7.6 of CVR's CRM procedures. CVR was unable to provide records to demonstrate that controllers had reviewed Management of Change (MOC) email documentation (notification) before taking shift regarding changes that had or would be occurring on the console. Similarly, records did not demonstrate compliance with § 195.446(f)(10) or CVR's CRM procedures, Sections 7.4 and 7.6, when training is required as the result of a change.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$141,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$36,200
3	\$36,200
4	\$36,200
5	\$36,800

Proposed Compliance Order

With respect to item #1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Coffeyville Resources Crude Transportation, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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 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 3-2022-058-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: Response Options for Pipeline Operators in Enforcement Proceedings

cc: Blake Record,, DOT Compliance Primary, brecord@cvrenergy.com
Mike Cogdill, DOT Compliance Primary, mlcogdill@cvrenergy.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Coffeyville Resources Crude Transportation, LLC (CVR), a Compliance Order incorporating the following remedial requirements to ensure the compliance of CVR with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to API 1130 Section 6.2.6, Test Records, CVR must create a procedure and associated documentation that will dictate the requirements for CPM tests. This must include the types of changes that will require a retest, identify periodic tests, identify original site specific test requirements, clarify what types of tests may be used (simulation, withdrawal, etc.), include periodic test frequency, define that the type of test that is performed must be part of the documentation of a test, require specifics of how the test was performed to be part of the test documentation, and require that a record of the test results along with the applicable test date be maintained for test documentation. CVR must document the type of test and specific date that these tests were performed for the existing Coffeyville assets and Atmos CPM system. The documentation must also clarify the associated output of those tests so that the documentation is complete and will provide clarification regarding that which is described in the Atmos International Operation and Maintenance manual. This documentation must be submitted to the Central Region Director and completed within 120 days of the receipt of the Final Order.

- B. In regard to Item 1 of the Notice pertaining to records, procedures, or other forms of documentation used by CVR, which were not available to demonstrate compliance with § 195.444 in operating, maintaining, testing, record keeping, and dispatcher training of the system, CVR must create API RP 1130 documentation requirements and integrate those requirements within its CRM procedures. Specifically, CVR's CRM procedures must be amended to include reference to API 1130 Section 6.3 Operating Issues and must be amended to ensure that the following issues are considered: API RP 1130 Section 6.3.1 Security, 6.3.2 Parameter Changes, 6.3.3 Pipeline System Maintenance Activities. A listing of the instrumentation that is involved in the leak detection system shall also be prepared. Additionally, a process shall be established for how this instrumentation will be adequately maintained between CVR and ROC. Clarification in procedures and associated documentation shall be established to define the types of changes that will result in the required maintenance and how the integrity of the CPM system will be maintained through instrumentation maintenance or replacement. The procedures and documentation shall clarify when a task is considered as maintenance only and does not require retesting of the Atmos system (changes requiring retests are described in paragraph A above). This must also include a review of Section 6.6 CPM Documentation of API 1130 and identify how the list of considerations were reviewed and clarify which of the considerations will be included with the CPM system implementation and documentation. All resulting documentation and procedures must be submitted to the Central Region Director within 90 days of receipt of the Final Order.

- C. In regard to Item 1 of the Notice pertaining to API 1130 Section 6.5, Controller Training and Retraining, CVR must require that users of the CPM system (i.e. the Pipeline Controllers) and any CPM support staff receive appropriate CPM training specific to the Atmos system and specific to CVR. Along with support

staff, this training must include controllers scheduled to operate CVR and those controllers that are cross trained on the console with CVR assets, leads, managers, and supervisors over the CVR assets. Training must be completed, and training content along with records identifying who attended this training must be submitted, to the Central Region Director within 90 days of receipt of the Final Order

- D. It is requested that CVR maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.