

Testimony of CVR Energy, Inc.
Coffeyville, KS
Presented by Ron Gaches
Kansas House Tax Committee
HB 2285: CIME Classification
February 21, 2013

On behalf of CVR Energy, Inc. and our subsidiary, Coffeyville Resources Nitrogen Fertilizers, LLC (CRNF), which is located in Coffeyville, Kansas, we encourage your support of HB 2285, the legislation to clarify the definition of commercial and industrial machinery and equipment (CIME) as personal property.

For decades, county appraisers throughout Kansas generally classified CIME used for a production or manufacturing process as personal property for property tax purposes. Even today, most county appraisers recognize that machinery and equipment attached to real property to benefit a commercial or business process (as opposed to machinery and equipment attached to real property for the purpose of serving the building), is personal property.

This practice is consistent with the Kansas Department of Revenue's Guidelines, which state that "a boiler that heats a building is considered real property, but a boiler that is used in the manufacturing process is considered personal property." This appraisal practice was applied throughout the state for many years without controversy.

However, a 2012 Court of Tax Appeals (COTA) split decision rejected this widely accepted distinction between real and personal property.

COTA agreed with a single county's unilateral reclassification of virtually all of the machinery and equipment used in Coffeyville Resources' fertilizer plant from personal property to real estate primarily because it was integrated into a production process and attached to the plant structure.

Our intent is not to re-argue this court case in the legislature. However, as a brief background, our fertilizer plant was granted tax abatement from its construction beginning in 1997 through 2007. The state supported this investment in a new and one-of-a-kind technology that would bring well-paying jobs to the state. Our company anticipated paying property tax in 2008 of nearly \$1 million upon the expiration of the fertilizer plant's property tax abatement. However, Montgomery County, supported by the appraisal report of an out-of-state consultant, reclassified the fertilizer plant's production assets from personal property to real estate. The only other operational fertilizer plant in the state, located in Dodge City, makes the same products, but its machinery and equipment are treated as personal property and it pays only a small fraction of the property taxes that CRNF does.

This reclassification resulted in much higher property taxes for our company: a difference of approximately \$10 million for the 2008 tax year alone. Montgomery County did not

reclassify the production assets of other manufacturing or production entities in the county, resulting in CVR bearing a disproportionate share of the property tax burden.

Since Montgomery County's unilateral reclassification of our fertilizer plant's assets, several other companies have experienced similar reclassifications, resulting in disproportionately high property tax bills for those singled-out taxpayers.

We strongly believe that treating CIME as real estate creates uncertainty and an undesirable environment for business growth and job creation. Any classification scheme that allows Kansas-based manufacturers and processors to have their manufacturing and production equipment treated as real property will create an inherent competitive disadvantage with surrounding states, all of whom statutorily define business machinery and equipment as personal property.

We believe that in order to ensure confidence in the business community, the Kansas Legislature must codify language, clarifying that CIME is personal property. HB 2285 fulfills this need and will establish a competitive business environment in Kansas.

This legislation is not retroactive to prior tax years. Instead, it addresses the issue going forward. HB 2285 will not interfere with pending litigation, which will continue to be addressed by the courts.

HB 2285 will not exempt all CIME from property taxes, nor will it reclassify buildings, building systems, or other real property to personal property.

We appreciate your serious consideration of this important legislation and hope you will vote in favor of the Kansas business community and its employees. Please vote yes to pass HB 2285.

If you should have further questions, please do not hesitate to contact either:

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About CVR Energy, Inc.

Headquartered in Sugar Land, Texas, CVR Energy is a diversified holding company, primarily engaged in the petroleum refining and nitrogen fertilizer manufacturing industries through its holdings in two limited partnerships, CVR Refining, LP and CVR Partners, LP. CVR Energy subsidiaries serve as the general partner and own a majority of the common units representing limited partner interests of CVR Refining and CVR Partners.

The company's presence in Kansas includes the Coffeyville Resources Refining & Marketing refinery, which owned by CVR Refining and one of only three petroleum refineries in Kansas. Also included is the Coffeyville Resources Nitrogen Fertilizers plant, which is owned by CVR Partners. This plant is the only such operation in North America that uses petroleum coke, a by-product of the adjacent refinery, in a coke gasification process to make nitrogen fertilizers, which are marketed to our nation's agricultural producers.