

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

October 5, 2017

Mr. James Fedena
Senior Vice President of Logistics
Delaware Pipeline Company, LLC
4550 Wrangle Hill Road
Delaware City, DE 19706

CPF 1-2017-5026W

Dear Mr. Fedena:

From April 24 - 28, 2017, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Delaware Pipeline Company, LLC's (Delaware) Delaware City Terminal located in Delaware and Pennsylvania.

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

1. § 195.505 Qualification Program

Each operator shall have and follow a written qualification program.

Delaware failed to follow its written operator qualification (OQ) program. Specifically, Delaware failed to maintain records reflecting the requirements of Section 3.6 of its written qualification program *PBF Energy - Qualification of Pipeline Personnel*, dated October 17, 2012, (Procedure).

During the inspection, the PHMSA inspector reviewed Delaware's Procedure. It states in Section 3.6, *Contract Personnel*:

“...Contractor's qualifications should be reviewed and approved by the company prior to the commencement of any work.

...

During the planning and/or execution stages of each job, the Company's representative in charge of the job will:

- Identify any covered tasks to be performed. Document on either the form in Appendix E or within the Jobsite Manager in ISNetworkworld.

...

- Require from the contractor a list of employees and which covered task they will be performing and notification of any qualified employee changes made during the work."

The PHMSA inspector reviewed the inspection report "Depth of Cover Survey and Inspection", dated 8/20/2013, and associated OQ records, for Delaware's 16" pipeline navigable waterway crossing inspection of the Christina River, a tributary of the Delaware River. Delaware utilized a contractor to perform this navigable waterway crossing inspection. The OQ records for the primary diver identified on the inspection report indicated that this individual was not qualified for Delaware's CT 16 "Inspection Navigable Waterway Crossing". When questioned by the PHMSA inspector, Delaware identified an additional individual as a primary diver for the inspection, whose OQ records reflected qualification for CT 16, but whose name was not on the original inspection report.

The PHMSA inspector then requested documentation reflecting the requirements from Section 3.6 of Delaware's Procedure, to verify this new information. Delaware was unable to produce the form "Contractor OQ Verification Form" from Appendix E, a record of the job's covered task list out of ISNetworkworld, or the contractor's supplied list of employees performing the specific covered tasks, as required by the procedure above.

Therefore, Delaware failed to follow its written operator qualification program, Section 3.6, *Contract Personnel*, by failing to maintain the required documentation.

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. 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 correct the item(s) identified in this letter. Failure to do so will result in Delaware Pipeline Company, LLC, being subject to additional enforcement action.

Please be advised that all material you submit in response to this enforcement action is subject to being 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).

No reply to this letter is required. If you choose to reply, please submit all correspondence in this matter to Robert Burrough, Acting Director, PHMSA Eastern Region, 820 Bear Tavern Road,

Suite 103, West Trenton, NJ 08628. Please refer to **CPF 1- 2017-5026W** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

Robert Burrough
Acting Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration