



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

FEB 04 2019

1200 New Jersey Avenue SE
Washington DC 20590

Mr. Ezra Uzi Yemin
CEO and Chairman of the Board
Delek Logistics Partners, LP
7102 Commerce Way
Brentwood, TN 37027

Re: CPF No. 4-2018-5001

Dear Mr. Yemin:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Delek Logistics Operating, LLC. It makes findings of violation, assesses a civil penalty of \$129,600, and specifies actions that need to be taken by Delek to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Southwest Region, Office of Pipeline Safety, PHMSA, this enforcement action will be closed. Service of the Final Order by certified mail is effective upon the date of mailing, 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: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. John H. Warren, Vice President, Operations, Delek Logistics Operating, LLC, 1001
School Street, El Dorado, AR 71730

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

but provided information concerning the corrective actions it had taken and requested additional time to complete certain of the proposed compliance actions. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Delek did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a)

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to [American Petroleum Institute (API)] Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653. Specifically, the Notice alleged that Delek failed to perform an external tank inspection for Breakout Tank #2002 within the maximum five-year interval, as required in API Standard 653, section 6.3.2.1. According to Delek's documentation at the time of the PHMSA inspection (March 2016), Delek had conducted the most recent external inspection in December 2008. As such, the inspection interval was exceeded by 27 months.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made

as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, the Notice alleged that Delek failed to follow its own procedure, *LTP-OP-110.0: Floating Roof Safety, Access/Ignition 195.405*, dated February 11, 2015. Section 6.5 of that procedure states:

Upon accessing the roof, one of the first actions shall be to verify that the tank and roof are properly electrically bonded (grounded) to assure there is no static potential between the roof and shell. Normally there should be a bond wire between the tank shell and roof that may also be bonded to or through the rolling stairs. Roof seal grounded/bond strips should also be inspected to make sure the seal, roof and shell are all electrically bonded (at the same static voltage).

Based on the PHMSA inspector's review of the Floating Roof Seal Inspection Checklist, Respondent failed to inspect the tank and roof to ensure they were electrically bonded and to assure there was no static potential between the roof and shell, as required by procedure *LTP-OP-110.0*. This inspection was not performed for tank #2002 from 2011-2015, or for tank #437 from 2013-2015.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow for each pipeline system its own manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.214(a), which states:

§ 195.214 Welding procedures.

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3), or section IX of the ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 195.3). The quality of the test welds used to qualify welding procedures must be determined by destructive testing.⁴

The Notice alleged that Respondent violated 49 C.F.R. § 195.214(a) by failing to have welding performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, or Appendix A of API Standard 1104, or section IX of the

⁴ 49 C.F.R. § 195.214(a) was amended in January 2017 to include Appendix B of API Standard 1104.

ASME BPVC. Specifically, the Notice alleged that during the inspection, the PHMSA inspector reviewed anomaly #S60273 (8.93% deformation in a High Consequence Area (HCA) on a 6-inch outside-diameter 0.280" WT Smackover pipeline) repair sheet. In July 2015, three welds (XR53, XR54, and XR55) were made to replace 84.04 feet of pipe in order to remove six anomalies, including #S60273. The PHMSA inspector reviewed a pipeline repair sheet and radiographic weld report but neither document listed the welder identification or the welder's name. Respondent also could not provide visual weld-inspection reports for these three welds, as required by API Standard 1104. As a result, the welder(s) could not be identified or their qualifications confirmed.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.214(a) by failing to have welding performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, or Appendix A of API Standard 1104, or section IX of the ASME BPVC.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?*

(1) *General requirements.* An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(1) by failing to take measures to prevent and mitigate the consequences of a pipeline failure that could affect an HCA. Specifically, the Notice alleged that Delek failed to perform an adequate risk analysis of its pipeline segments to determine the appropriate preventive and mitigative (P&M) measures. Delek uses its procedure, *IMP Section 11: Identification of Preventive/ Mitigative Measures*, as the process and methodology to evaluate its pipeline system and identify these P&M measures that could potentially reduce the risk of a failure and/or limit the consequence of a failure. Section 11.3 of this procedure states:

The following events will cause the Integrity Data Specialist to form a P&M Evaluation Team within six months of their occurrence:

- Notification that new assessment or inspection results have been received;
- Identification of a previously unknown threat to a pipeline segment that is serious enough to warrant attention to ensure continued pipeline integrity, such as an approved Field Report on Potential New High Consequence Area Along Pipeline Route (see Sec. 2.4), an aerial or ground patrol discovery of significant third party activity, a leak or rupture from an unsuspected threat mechanism.
- Receipt of any other information which could affect the results of previous P&M reviews or otherwise impact the integrity of the pipeline section.

According to the Notice, Delek utilized multiple in-line inspection (ILI) tools to assess the integrity of various pipeline segments between September 6, 2012, and September 8, 2015. On at least seven separate occasions, Delek allegedly failed to follow its *IMP Section 11.0* procedure upon receipt of ILI inspection results. The Notice further alleged that Respondent failed to document the P&M actions that were taken to enhance public safety or environmental protection. Based on records provided to the PHMSA inspector, Respondent allegedly had not followed its own process or methodology since April 3, 2005.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(i)(1) by failing to take measures to prevent and mitigate the consequences of a pipeline failure that could affect an HCA.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(k), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

- (a)
- (b) *What program and practices must operators use to manage integrity?* Each operator of a pipeline covered by this section must:
 - (1) . . .
 - (5) Implement and follow the program. . .
- (k) *What methods to measure program effectiveness must be used?* An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this part for guidance on methods that can be used to evaluate a program's effectiveness.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(k) by failing to measure whether its integrity management program (IMP) was effective in assessing and evaluating the integrity of each pipeline segment and in protecting HCAs. Specifically, the Notice alleged that Delek's *IMP Manual, Section 12.4: Evaluation of Performance Measures (Manual)*, states:

The [Delek] Integrity Management Review Board will annually evaluate the effectiveness of its integrity assessment methods, and the preventive and mitigation risk control activities, including repair. Performance measures will be compared to previous years' metrics to look for trends. The Integrity Management Review Board will review the metrics for continued tracking and add any additional metrics to aid in the evaluation of the effectiveness of the IMP. The Integrity Management Review Board will also evaluate the effectiveness of its management systems and processes in supporting integrity management decisions. A combination of performance measures and system audits are [sic] necessary to evaluate the overall effectiveness of an IMP. The Integrity Management Review Board will issue a written report documenting discussions and findings.

While the *Manual* required an annual review of the IMP's effectiveness, Respondent allegedly could not demonstrate that such a review had been performed for the calendar years 2011, 2013, or 2015.⁵

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(k) by failing to measure whether its IMP was effective in assessing and evaluating the integrity of each pipeline segment and in protecting HCAs.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f) and (g), which state, in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(f) *What are the elements of an integrity management program?* . . . An operator must include, at minimum, each of the following elements in its written integrity management program: . . .

(3) An analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (see paragraph (g) of this section): . .

(g) *What is an information analysis?* In periodically evaluating the integrity of each pipeline segment (paragraph (j) of this section), an operator must analyze all available information about the integrity of the entire pipeline and the consequences of a failure. This information includes:

(1) Information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage

⁵ The Notice also noted, based on PHMSA's review of Delek's 2012 and 2014 records, that Respondent failed to apply the guidance provided in Part 195, Appendix C, Section V, to measure its IMP's performance and that Delek's performance metrics did not provide meaningful insight into its performance. While operators are not required to follow the guidance in Appendix C and this particular statement in the Notice does not constitute part of the allegation of violation, the "methods" used by an operator to evaluate program effectiveness must be able to accomplish this performance-based requirement.

prevention activities, and development or planned development along the pipeline segment;

(2) Data gathered through the integrity assessment required under this section;

(3) Data gathered in conjunction with other inspections, tests, surveillance and patrols required by this Part, including, corrosion control monitoring and cathodic protection surveys; and

(4) Information about how a failure would affect the high consequence area, such as location of the water intake.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f) and (g) by failing to conduct an information analysis as part of its IMP that analyzed all available information about the integrity of the entire pipeline and the consequences of a failure. Specifically, the Notice alleged that Delek did not analyze all relevant risk categories and operating conditions when evaluating individual pipeline-segment risks. Respondent's procedure, *IMP Section 3.0: Risk Assessment Procedures*, Section 3.2: *Risk Ranking Methodology*, states:

[Delek] has developed a relative risk ranking model based on the guidelines and techniques developed by W. Kent Muhlbauer 1, who is a recognized authority on pipeline risk management. As indicated in Figure 3-1, this model scores various mechanisms for pipeline failure to develop a relative probability index score for a release from a given pipeline segment. A separate scoring is developed for the relative consequences for the pipe segment release. The product of these two indices (Probability Index X Consequence Index) generates the relative risk index score for the pipeline segment. Higher scores with this model represent higher risks when comparing two or more pipeline segments.

Additionally, Respondent's *IMP Section 3.6: Validation and Recalculation of Risk*, states:

Validation of the risk assessment model and corresponding results is an important and ongoing process in an IMP. The [Delek] Maintenance/Engineering Superintendent will oversee this validation process using the Integrity Data Specialist as appropriate. The Maintenance/Engineering Superintendent will assure that the data and methods being used are correct, comprehensive and that the results generated by the model make sense and are consistent with operator experiences. A modification to the risk assessment process or a recalculation of the relative risks will be performed when sufficient additional objective data are available to affect the outcome and corresponding ranking of affected HCA segments for assessment purposes. NOTE that for pipeline systems under the jurisdiction of the Texas Railroad Commission, current regulations (16TAC §8.101) require that the Risk Assessment be re-performed every three years.

The PHMSA inspector reviewed Delek's *Figure 3-1: Relative Risk Analysis Method* and risk-analyses results for randomly-selected covered segments. Based on this review, the Notice alleged that Respondent failed to analyze relevant risks related to equipment, weather, manufacture, and outside-force threats. Respondent performed its most recent risk analysis in 2010, after determining which of its pipeline segments were in areas unusually sensitive to environmental damage. Since the date of this determination, Respondent allegedly had not updated its risk-analysis data for pipe re-routing and replacement, new ILI data, third-party damage, leak history, and incidents.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(f) and (g) by failing to analyze all available information about the integrity of its entire pipeline and the consequences of a failure.

Item 10: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a)

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3 *Alternative Internal Inspection Interval*) (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653. Specifically, the Notice alleged that Delek failed to perform an initial internal inspection for Breakout Tank #2002 within the maximum 10-year interval, as required in API Standard 653, section 6.4.2.1. Breakout Tank #2002 was allegedly placed in service on or about July 2, 2003, but as of March 2016, Delek had still not performed an internal inspection as required by section 6 of API Standard 653.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653.

These findings of violation 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.⁶ In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I 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; and any effect that the penalty may have on its ability to continue in business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. 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 \$129,600 for the violations cited above.

Item 5: The Notice proposed a civil penalty of \$36,000 for Respondent's violation of 49 C.F.R. § 195.452(i)(1), for failing to take measures to prevent and mitigate the consequences of a pipeline failure that could affect an HCA. Delek neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$36,000 for violation of 49 C.F.R. § 195.452(i)(1).

Item 6: The Notice proposed a civil penalty of \$36,000 for Respondent's violation of 49 C.F.R. § 195.452(k), for failing to measure whether its IMP was effective in assessing and evaluating the integrity of each pipeline segment and in protecting HCAs. Delek neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$36,000 for violation of 49 C.F.R. § 195.452(k).

Item 7: The Notice proposed a civil penalty of \$36,000 for Respondent's violation of 49 C.F.R. § 195.452(f) and (g), for failing to analyze all available information about the integrity of the entire pipeline and the consequences of a failure. Delek neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$36,000 for violation of 49 C.F.R. § 195.452(f) and (g).

Item 10: The Notice proposed a civil penalty of \$21,600 for Respondent's violation of 49 C.F.R. § 195.432(b), for failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653. Delek neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$21,600 for violation of 49 C.F.R. § 195.432(b).

In summary, having reviewed the record and considered the assessment criteria for each of the

⁶ These amounts are adjusted annually for inflation. See, e.g., Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

Items cited above, I assess Respondent a total civil penalty of **\$129,600**.

Payment of the civil penalty must be made within 20 days of service. 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 \$129,600 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 Items 2, 3, 4, 5, 6, 7, and 10 in the Notice for violations of 49 C.F.R. §§ 195.432(b), 195.402(a), 195.214(a), 195.452(i)(1), 195.452(k), 195.452(f) and (g), and 195.432(b), respectively. 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 has indicated that Respondent has taken the following actions to address one of the cited violations:

1. With respect to the violation of § 195.432(b) (**Item 2**), Respondent has performed an external inspection for Breakout Tank #2002 in accordance with API Standard 653, Section 6.3.2.1.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice for Item 2 are not included in this Order.

As for the remaining compliance terms, pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.402(a) (**Item 3**), Respondent must inspect its breakout tanks for electrical bond and revise its Floating Roof Seal Inspection Checklist to include the inspection of electric bond, to assure there is no static potential between the roof and shell during operation and maintenance activities;
2. With respect to the violation of § 195.214(a) (**Item 4**), Respondent must develop a process to capture information that indicates welding has been performed by a

qualified welder in accordance with welding procedures qualified under section 5 of API Standard 1104. Respondent must also develop a form for the visual inspection of welds;

3. With respect to the violation of § 195.452(i)(1) (**Item 5**), Respondent must conduct an adequate risk analysis to determine measures to prevent and mitigate the consequence of a pipeline failure that could affect an HCA;
4. With respect to the violation of § 195.452(k) (**Item 6**), Respondent must establish methods to annually measure IMP effectiveness to ensure the program is effective in assessing and evaluating the integrity of each of its pipeline segments and in protecting HCAs;
5. With respect to the violation of § 195.452(f) and (g) (**Item 7**), Respondent must analyze all relevant risk categories and operating conditions and evaluate individual pipeline segment risks in analyzing and integrating all available information about the integrity of its covered pipeline segments and consequences of a failure; and
6. With respect to the violation of § 195.432(b) (**Item 10**), Respondent must perform an internal inspection of Breakout Tank #2002 and must incorporate the correct edition of API Standard 653 as set forth in 49 CFR § 195.3.
7. Respondent must submit to the Director, within 30 days following receipt of the Final Order, written documentation of steps taken to satisfy Compliance Order Items 1 and 2 above.
8. Respondent must submit to the Director, within 90 days following receipt of the Final Order, written documentation of steps taken to satisfy Compliance Order Items 3 through 6 above.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEMS

With respect to Items 1, 8, and 9, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.402(a) (**Item 1**) — Respondent's alleged failure to follow its own manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies, specifically, Respondent's *Integrity Management Plan, Section 6.0: Conducting Assessments/Results Review required by §195.452(b)(1)*;

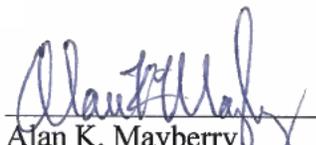
49 C.F.R. § 195.61 (**Item 8**) — Respondent's alleged failure to submit geospatial data to PHMSA on or before June 15, 2015; and

49 C.F.R. § 195.54(a) (**Item 9**) — Respondent's alleged failure to file an accident report on DOT Form 7000-1 within 30 days of the discovery of a reportable release at its Smackover Station.

If PHMSA finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a 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 corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



Alan K. Mayberry
Associate Administrator
for Pipeline Safety

FEB 04 2019

Date Issued