

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 7, 2018

Delek Logistics Operating, LLC
Mr. John Warren, Vice President - Operations
1001 School Street
El Dorado, AR 71730

CPF 4-2018-5001

Dear Mr. Warren:

On multiple dates between February 19 and April 1, 2016, 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 inspected Delek Logistics Operating, LLC's (Lion) Magnolia and Arkansas pipeline systems in El Dorado, Arkansas.

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

- 1. §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 ensure 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.

Lion failed to follow their Integrity Management Plan, Section 6.0: Conducting Assessments/Results Review required by §195.452 (b) (1).

Lion's IMP Plan Section 6.6: Recordkeeping and Distribution states, "All anomaly investigations will be documented using Exposed Pipe Inspection Report form (see Appendix G) and additional forms as appropriate (see Section 8.0 –Repair Procedures). The Pipeline Specialist will forward these forms to the Regional Engineer for inclusion in the pipeline segment file."

While reviewing, records associated with 17.9 miles of 16" crude pipeline (Finny, Segment # 1002) smart pig run in September 2012, it was noted that Lion had not reported any condition to this pipeline that presents a potential threat to the integrity of the pipeline. Lion made two validation digs (Anomaly # 40000002 and Anomaly # 40000046). For both these digs, Lion failed to provide exposed pipe inspection report form.

2. §195.432 Inspection of in-service breakout tanks.

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to API Standard 653 (incorporated by reference, see § 195.3). However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3).

Lion failed to perform an external tank inspection for breakout tank # 2002 within the maximum five-year interval, in accordance with API 653 Section 6.3.2.1. According to the document provided by Lion, the most recent external inspection occurred in December, 2008. At the time of the PHMSA inspection (March 2016), the PHMSA inspector noted that the external inspection had not been performed within the required interval. As a result, the inspection interval is exceeded by 27 months.

In accordance with § 195.432 and the referenced standard, API 653 6.3.2.1, an operator is required to perform external inspections of all breakout tanks at an interval that may not exceed 5 years.

3. §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 ensure 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.

Lion failed to follow their procedure LTP-OP-110.0: Floating Roof Safety, Access/Ignition (Revised 2/11/2015) that meets the requirements of §195.405(a)

Section 6.5 of the 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)”.

When the PHMSA inspector requested records associated with the protection against ignitions and safe access/egress involving the floating roof, Lion provided the Floating Roof Seal Inspection checklist to the inspector. Based on the review of these records, Lion failed to inspect the tank and roof to ensure that they are electrically bonded and to assure there is no static potential between the roof and shell as required by procedure LTP-OP-110.0. This inspection was not performed for tank no. 2002 from 2011- 2015 and tank no. 437 from 2013-2015. Lion failed to follow their procedure and perform these inspections as required by procedure LTP-OP-110.0.

4. §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 Standard 1104 (incorporated by reference, *see* §195.3), or section IX of 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.

Lion failed to provide the records indicating that welding was performed by a qualified welder in accordance with welding procedures qualified under section 5, section 12 or Appendix A of API Standard 1104 (incorporated by reference, *see* §195.3).

During the inspection, the PHMSA inspector reviewed anomaly # S60273 (8.93% deformation in HCA area on a 6” OD, 0.280” WT Smackover pipeline) repair sheet. A total of three welds (XR53, XR54, and XR55) were made to replace 84.04 feet of pipe in July 2015 in order to remove six anomalies including S60273. Lion provided the PHMSA inspector a pipeline repair sheet and Radiographic weld report but neither documents listed the welder ID or welder’s name. Lion also failed to provide visual weld inspection reports for these three welds as required by API 1104. As a result, welder cannot be identified and their qualification cannot be confirmed.

5. §195.452 Pipeline integrity management in high consequence areas.

(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.

Lion failed to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area (HCA). Specifically, Lion failed to perform an adequate risk analysis of its pipeline segments to determine measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area.

Lion has a process and methodology (IMP Section 11: *Identification of Preventive/ Mitigative Measures*) that they use to evaluate its pipeline system to identify preventative and mitigative measures that could potentially reduce the risk of a failure and/or limit the consequence of 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

Lion utilized multiple ILI tools to assess the integrity of the various pipeline segments between 9/6/2012 and 9/8/2015. On at least seven separate occasions, Lion failed to follow IMP section 11.0 procedure upon receipt of ILI inspection results. Lion failed to document the measures taken to prevent and mitigate the consequence of possible pipeline failure that could affect HCA to enhance public safety or environmental protection.

Based on records provided to the PHMSA inspector, it appears the last time Lion followed their process or methodology was on April 3, 2005.

6. §195.452 Pipeline integrity management in high consequence areas

(f) What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other

maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(7) Methods to measure the program's effectiveness (see paragraph (k) of this section);

(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.

Lion did not measure their pipeline integrity management program for effectiveness as required by the regulation.

Lion's IMP manual, Section 12: *Integrity Management Plan Evaluation, sub section 12.4: Evaluation of Performance Measures states*, "The LOTT 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 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 requires an annual review of the integrity management program effectiveness, Lion personnel could not demonstrate that such a review had been performed for the calendar years 2011, 2013 and 2015.

Also, based on review of 2012 and 2014 records, the PHMSA inspector learned that Lion does not apply the guidance provided in Appendix C to Part 195, Section V to measure performance. Lion's performance metrics are not providing meaningful insight into the integrity management program performance.

7. §195.452 Pipeline integrity management in high consequence areas

(f) What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. 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 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.**

Lion failed to correctly analyze and integrate all available information about the integrity of its covered pipeline segments and consequence of failure because it did not consider all relevant risk categories and operating conditions when evaluating individual pipeline segment risk.

Lion's IMP Section 3.0: Risk Assessment Procedures, Section 3.2: Risk Ranking Methodology states, "LOTT 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".

In addition, Lion'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 LOTT 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 Figure 3-1: LOTT Relative Risk Analysis Method and results of risk analysis of randomly selected covered segments. Based on review, it appears that Lion failed to consider relevant risk related to equipment, weather, manufacture and outside force threat in Figure 3-1 and in their risk analysis for the covered segments. Lion performed its most recent risk analysis in 2010 after they determined their pipeline segments in areas that are an usually sensitive to environmental damage. Since

then LION has not updated its risk analysis data for pipe re-route and replacement, new ILI data, third party damage, leak history and incident.

8. § 195.61 National Pipeline Mapping System

(a) Each operator of a hazardous liquid pipeline facility must provide the following geospatial data to PHMSA for that facility:

- (1) Geospatial data, attributes, metadata and transmittal letter appropriate for use in the National Pipeline Mapping System. Acceptable formats and additional information are specified in the NPMS Operator Standards manual available at www.npms.phmsa.dot.gov or by contacting the PHMSA Geographic Information Systems Manager at (202) 366-4595.**
- (2) The name of and address for the operator.**
- (3) The name and contact information of a pipeline company employee, to be displayed on a public Web site, who will serve as a contact for questions from the general public about the operator's NPMS data.**

(b) This information must be submitted each year, on or before June 15, representing assets as of December 31, of the previous year. If no changes have occurred since the previous year's submission, the operator must refer to the information provided in the NPMS Operator Standards manual available at www.npms.phmsa.dot.gov or contact the PHMSA Geographic Information Systems Manager at (202) 366-4595.

Lion failed to submit geospatial data to PHMSA on or before June 15, 2015. Lion did not experience any changes but failed to contact PHMSA as required by the regulation.

9. §195.54 Accident reports.

(a) Each operator that experiences an accident that is required to be reported under § 195.50 must, as soon as practicable, but not later than 30 days after discovery of the accident, file an accident report on DOT Form 7000-1.

Lion failed to file an accident report on DOT Form 7000-1 within thirty days of the discovery of a reportable release at their Smackover Station. Lion experienced a release of less than 5 gallons (19 liters) of crude oil that was not cleaned up promptly at their Smackover Station in Arkansas during a maintenance pig run on a 4" Louann pipeline. This segment of the Louann pipeline traverse through and Other Populated Area (OPA) and as a result, it is subject to the PHMSA's jurisdiction. The exact date of the release was not determined; however, it was more than thirty days prior to the field inspection performed by PHMSA on March 30, 2016.

10. §195.432 Breakout tanks.

(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.

Lion failed to inspect the physical integrity of in-service Breakout Tank # 2002 within the required timeframe. The tank was constructed to API 650 standard; placed in-service on or about July 2, 2003 and as of March 2016, they had not performed an out-of-service internal inspection required by Section 6 of API 653.

The intervals of inspection specified by API 653 section 6.4.2.1 states ‘The interval from initial service until the initial internal inspection shall not exceed 10 years.’

Proposed Civil Penalty

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. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$129,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
5	\$36,000
6	\$36,000
7	\$36,000
10	\$21,600

Warning Items

With respect to items 1, 8, and 9 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 promptly correct these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 2, 3, 4, 5, 6, 7 and 10 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Delek Logistics Operating, 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 Compliance 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). 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.

In your correspondence on this matter, please refer to **CPF 4-2018-5001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Frank Causey
Acting Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 2 of the Notice pertaining to Lion's failure to perform external inspection for breakout tank # 2002 within the maximum 5-year interval, Lion must perform an external inspection in accordance with API 653 Section 6.3.2.1.
2. In regard to Item Number 3 of the Notice pertaining to Lion's failure to verify the tank and roof are properly electrically bonded (grounded) to assure there is no static potential between the roof and shell, Lion must inspect their Breakout Tanks for electrical bond and revise their Floating Roof Seal Inspection Seal 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.
3. In regard to Item Number 4 of the Notice pertaining to Lion's failure to provide the records which indicates welding was performed by a qualified welder in accordance with welding procedure qualified under section 5 of API 1104, Lion must develop a process to capture this information. Also, Lion must develop a form for the visual inspection of weld.
4. In regard to Item Number 5 of the Notice pertaining to Lion's failure to take measures to prevent and mitigate the consequences of a pipeline failure that could affect high consequence area, Lion must conduct an adequate risk analysis to determine measures to prevent and mitigate the consequence of a pipeline failure that could affect a high consequence area.
5. In regard to Item Number 6 of the Notice pertaining to Lion's failure to review the program effectiveness of the integrity management program during the calendar year 2011, 2013, and 2015. Lion must establish the methods to measures program effectiveness to assess the integrity management program is effective in assessing and evaluating the integrity of each of their pipeline segment and in protecting the high consequence areas annually.
6. In regard to Item Number 7 of the Notice pertaining to Lion's failure to correctly analyze and integrate all available information about the integrity of its covered pipeline segment and consequence of failure, Lion must consider all relevant risk categories and operating conditions and evaluate individual pipeline segment risks.
7. In regard to Item Number 10 of the Notice pertaining to Lion's failure to inspect the physical integrity of in-service Breakout Tank # 2002 within timeframe specified by API 653 section 6.4.2.1, Lion must perform an internal inspection. Also, Lion must incorporate the correct edition of API 653 listed in §195.3.
8. Lion must complete items 1, 2 and 3 within 30 days and items 4, 5 6 and 7 within 90 days.

9. It is requested (not mandated) that Lion maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Southwest, 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.