

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 2, 2019

John Warren
Vice President Operations
Delek Logistics Operating, LLC
1001 School Street
El Dorado, Arkansas 71730

CPF 4-2019-5012

Dear Mr. Warren:

On multiple dates between December 5, 2017 and March 26, 2018, representatives 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 your Magnolia Pipeline system in El Dorado, Arkansas.

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

1. §195.446 Control room management.

(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:

(5) For pipeline operating setups that are periodically, but infrequently used, providing an opportunity for controllers to review relevant procedures in advance of their application; and

Delek failed to review the content of its controller training program to identify potential improvements, at least once each calendar year, but at intervals not to exceed 15 months.

Delek's procedure LTP-DP-001.06: 'DKL Control Room Management Plan Manual' (Revision date: July 11, 2014), requires Delek to conduct an annual review of its controller training program.

Delek's CRM manual LTP-DP-001.06, Section 9, Subsections 4.12.1, 4.12.2, 4.12.3 states:

4.12.1 The training program, including content, shall be evaluated at least once each calendar year, but at intervals not to exceed 15 months

4.12.2 An assessment shall be developed and used for annual evaluation

4.12.3 The assessment should include items that measure program effectiveness and identify areas for improvement.

While reviewing Delek's controller training program, PHMSA requested records to demonstrate that Delek performed an annual review of its controller training program for calendar years 2016 and 2017. Delek could not provide any documented evidence to indicate that it performed the required annual review of its controller training program in calendar years 2016 and 2017. Delek last reviewed its controller training program in 2015.

Also, Delek did not provide an opportunity for controllers to review the relevant procedures in advance of its application as it applied to an ILI Tool Run of the Buckner 8" and 6" line segment performed in 2016.

Delek's CRM manual LTP-DP-001.06, Section 9, Subsections 4.10.13.1, 4.10.13.2, 4.10.13.3 states:

4.10.13 Operating setups that occur infrequently, but do occur periodically

4.10.13.1 Procedures for these setups will be reviewed before the setup is performed

4.10.13.2 These operating setups include:

4.10.13.3 ILI Tool Runs

4.10.13.4 Finney Reversal during Turnaround

According to Delek's CRM manual, the procedure for ILI tool runs would be reviewed before the setup is performed. PHMSA's review of the Delek controller training program discovered that Delek did not have a procedure for the ILI Tool Runs conducted in 2016, to include 6" and 8" pipeline segments located in Buckner, Arkansas.

2. §195.403 Emergency response training.

(b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

(1) Review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph (a) of this section; and

(2) Make appropriate changes to the emergency response training program as necessary to ensure that it is effective.

Delek failed to (1) review with its personnel their performance in meeting the objectives of the emergency response training program set forth in its personnel training manual; and (2) make appropriate changes to the emergency response training program as necessary to ensure that it is effective, at intervals not exceeding 15 months, but at least once each calendar year.

According to Delek's O&M manual LTP-OP-113, Section 6.0 (Issue date: February 11, 2015):

Once a year, not to exceed 15 months, all maintenance and operation personnel will be reviewed as to their knowledge of the objectives described above; the training program, including the OQP will be adjusted according to the review.

At the time of the inspection, Delek could not provide any evidence that indicates that they reviewed the performance of their personnel in meeting the objectives of their emergency response training program as required by §195.403(b). Delek also did not conduct an annual review of its emergency response training program as stated in its procedure, for calendar years 2015, 2016, and 2017.

3. §195.308 Testing of tie-ins.

Pipe associated with tie-ins must be pressure tested, either with the section to be tied in or separately.

§195.310 Records.

(a) A record must be made of each pressure test required by this subpart, and the record of the latest test must be retained as long as the facility tested is in use.

Delek failed to conduct a pressure test, and maintain records of pressure test of each pipe associated with tie-ins to breakout Tank 2013, as required by §§195.308 and 195.310.

Delek constructed and placed in service a new breakout Tank (number 2013) at its Magnolia Pump Station in 2016. PHMSA noted during the inspection that the pipe added and associated tie-ins to breakout Tank 2013 were not pressure tested.

At the time of the inspection, Delek could not present any evidence to indicate that it conducted pressure test of the tie-ins before they were installed in 2016. After the inspection Delek conducted a pressure test of the tie-ins on July 26, 2018, and submitted records of the pressure test to PHMSA for review.

4. §195.507 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) Identification of qualified individual(s);

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification; and

(4) Qualification method(s).

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

Delek failed to maintain qualification records of its personnel that performed covered tasks. Specifically, Delek failed to provide records to support the qualifications of its personnel that performed monthly breakout tank inspections.

On multiple occasions between January 2017 and March 2018, Delek's personnel performed monthly inspection of breakout Tanks 437, 2002, and 2013, located at its Magnolia, Arkansas

pump station. When PHMSA reviewed Delek’s personnel qualification records, it identified that individuals that performed monthly breakout tank inspections did not have qualification records.

Delek has identified breakout tank inspections as covered task 006OP in its written Operator Qualification program.

Delek was not able to provide any documentation supporting the current qualification of its personnel that performed the covered task between January 2017, and March 2018.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. 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. 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 \$89,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 3	\$46,600
Item 4	\$43,200

Proposed Compliance Order

With respect to items 1 and 2, pursuant to 49 U.S.C. § 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).

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 4-2019-5012** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
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 a Compliance Order incorporating the following remedial requirements to ensure the compliance of Delek Logistics Operating LLC with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to Delek's failure to perform review of the content of its controller training program to identify potential improvement at least once each calendar year, but at intervals not to exceed 15 months, and Delek's failure to prepare and review a procedure for ILI tool Runs prior to its application.

Delek must develop a procedure for ILI Tool Runs, and submit a copy to PHMSA for review within 60 days of the date of this Final Order. Within 30 days after PHMSA review and agrees with the developed procedure, Delek must train and review the procedure with its controllers. Furthermore, for calendar year 2018, Delek must perform a review of its controller training program in accordance with §195.446(h). Delek must submit all records that indicate compliance to this Order to Director, Southwest Region within 90 days of the date of the Final Order.

2. In regard to Item Number 2 of the Notice pertaining to Delek's failure to conduct an annual review of its emergency response training procedure, to determine personnel performance in meeting the objectives of the emergency response training program Seth for in 195.403(a).

For calendar year 2018, Delek must review with personnel their performance in meeting the objectives of the emergency response training program Seth forth in §195.403(a), and make appropriate changes to the emergency response training procedure as necessary to ensure that it is effective. Delek must submit revised procedure and records that indicate compliance to the items identified in this Order to Director, Southwest Region within 90 days of the date of the Final Order.

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