U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 28, 2020

VIA ELECTRONIC MAIL TO: ezra.yemin@delekus.com

Mr. Ezra Uzi Yemin
Chairman, President, and Chief Executive Officer
Delek US Holdings, Inc.
7102 Commerce Way
Brentwood, Tennessee 37027

Re: CPF No. 4-2019-5018

Dear Mr. Yemin:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Delek Crude Logistics, LLC. It makes three findings of violation, assesses a civil penalty of $19,000, and specifies actions that need to be taken 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, this enforcement action will be closed. Service of the Final Order by electronic mail is effective upon the date of transmission, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER MAYBERRY

Digitally signed by ALAN KRAMER MAYBERRY
Date: 2020.05.22 15:00:23 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Michael Odigie, Vice President, Asset Integrity, Delek Logistics Partners, LP, michael.odigie@deleklogistics.com

CONFIRMATION OF RECEIPT REQUESTED

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
Delek Crude Logistics, LLC, a subsidiary of Delek US Holdings, Inc.,	)	**CPF No. 4-2019-5018**
Respondent.	)	

FINAL ORDER

From December 17, 2018, through June 21, 2019, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Delek Crude Logistics, LLC's (DCL or Respondent) Healdton to Yantis eight-inch hazardous liquid pipeline system near Dallas, Texas. DCL is a wholly-owned subsidiary of Delek Logistics Partners, LP (DLP), which is, in turn, majority-owned by Delek US Holdings, Inc.[1] DLP operates a system of crude-oil pipelines and refineries across the United States.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated November 4, 2019, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that DCL had violated 49 C.F.R. §§ 195.64(c)(2)(iv), 195.440(a), and 195.583(a) and proposed assessing a civil penalty of $19,000 for one of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action but warned the operator to correct the probable violations or face possible future enforcement action.

DLP responded to the Notice on behalf of DCL by letter dated December 13, 2019 (Response). The company contested one of the allegations of violation, provided information concerning the corrective actions it had taken, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

[1] Delek Logistics Partners, LP website, *available at* https://www.deleklogistics.com/node/10576/html (last accessed May 20, 2020); Delek US Holdings, Inc. website, *available at* https://ir.delekus.com/node/16021/html (last accessed May 20, 2020).

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.64(c)(2)(iv), which states:

> **§ 195.64 National Registry of Pipeline and LNG Operators.**
> (a) . . . .
> (c) Changes. Each operator must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at http://opsweb.phmsa.dot.gov, of certain events.
> (1) . . . .
> (2) An operator must notify PHMSA of any following event not later than 60 days after the event occurs:
> (i) . . . .
> (iv) The acquisition or divestiture of 50 or more miles of pipeline or pipeline system subject to this part; or

The Notice alleged that Respondent violated 49 C.F.R. § 195.64(c)(2)(iv) by failing to notify PHMSA within 60 days of the acquisition of an existing pipeline facility. Specifically, the Notice alleged that DCL purchased the Healdton to Yantis pipeline on September 15, 2017, and should have notified PHMSA of the acquisition no later than November 14, 2017. However, DCL did not file the required notification until December 13, 2019. In its Response, DLP did not contest the violation of § 195.64(c)(2)(iv), but requested a reduction in the proposed civil penalty, which is addressed in the "Assessment of Penalty" section below.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.64(c)(2)(iv) by failing to notify PHMSA within 60 days of the acquisition of an existing pipeline facility.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.440(a), which states:

> **§ 195.440 Public awareness.**
> (a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, *see* §195.3).

The Notice alleged that Respondent violated 49 C.F.R. § 195.440(a) by failing to develop and implement a written continuing public education program that follows the guidance provided in API RP 1162. Specifically, the Notice alleged that DCL's Public Awareness Plan (PAP) failed to follow the guidance in API RP 1162, sections 2, 3, 6, and 8, for six aspects of the public awareness program (PAP). DLP did not contest the allegation of violation.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.440(a) by failing to develop and implement a written continuing public education program

that follows the guidance provided in API RP 1162.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.583(a), which states:

> **§ 195.583 What must I do to monitor atmospheric corrosion control?**
> (a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

The Notice alleged that Respondent violated 49 C.F.R. § 195.583(a) by failing to inspect each onshore pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months. Specifically, the Notice alleged that DCL did not have any records demonstrating that the Healdton to Yantis pipeline system had been inspected for atmospheric corrosion, either since Respondent's acquisition of the system in September 2017 or by the previous owner/operator. DLP did not contest this allegation of violation.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.583(a) by failing to inspect each onshore pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months.

These findings of violation will be considered as 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.[2] 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; any effect that the penalty may have on its ability to continue doing 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 $19,000 for the violation cited above in Item 2.

[2] These amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223.

Item 2: The Notice proposed a civil penalty of $19,000 for Respondent's violation of 49 C.F.R. § 195.64(c)(2)(iv), for failing to notify PHMSA within 60 days of the acquisition of an existing pipeline facility. Although DLP did not contest the violation, the company noted that it had filed with PHMSA other required annual reports and submissions pertaining to the pipeline facility since its September 2017 acquisition. While Respondent's compliance with other requirements of the Pipeline Safety Regulations in 49 C.F.R. Parts 191 and 195 are commendable, such actions do not constitute grounds to reduce the civil penalty for the company's noncompliance with this particular requirement. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **$19,000** for violation of 49 C.F.R. § 195.64(c)(2)(iv).

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 $19,000 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, 4, and 5 in the Notice for violations of 49 C.F.R. §§ 195.64(c)(2)(iv), 195.440(a), and 195.583(a), 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 several of the cited violations:

With regard to the violation of § 195.64(c)(2)(iv) (Item 2), Respondent filed a copy of the required acquisition notification with PHMSA on December 13, 2019. Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice for Item 2 is 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, within 60 days following receipt of this Order:

1. With respect to the violation of § 195.440(a) **(Item 4)**, Respondent must follow the general recommendations of API RP 1162, sections 2, 3, 6, and 8, including updating its PAP to:

    a. Provide adequate management support through its policy, participation, and allocation of resources, as required by § 195.440(a);

    b. Provide an update to *Section 1.1.4, Pipelines Covered: Table 1-2* of its PAP to include all pipeline assets covered under the PAP;

    c. Define the communication coverage area (buffer) for outreach and notification, delivery methods and delivery frequencies that are to be covered by the written PAP. DLP must identify the audience(s) that receives PAP messages in the coverage area for outreach and notification, in accordance with § 195.440(c);

    d. Include a procedure for a supplemental review in the written PAP, DLP must consider external factors along the pipeline system and determine if additional levels of public awareness communications are warranted beyond the recommended baseline program in accordance with § 195.440(c).

    e. Include a procedure in the written PAP that measures the bottom-line results of the program by tracking third-party incidents and their consequences, including: (1) "near misses," (2) excavation damages resulting in pipeline failures, and (3) excavation damages that do not result in pipeline failures. DLP must provide bottom-line result measures, in accordance with § 195.440(c); and

    f. Include a procedure in the written PAP that specifies how self-assessments and effectiveness evaluations will be conducted. DLP must specify how program implementation and effectiveness will be evaluated, in accordance with § 195.440(i).

2. With respect to the violation of § 195.583(a) **(Item 5)**, Respondent must conduct atmospheric corrosion inspections of exposed pipeline and pipeline facilities, as required by § 195.583(a).

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 (not mandated) 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 and 3, the Notice alleged probable violations of Part 195, but identified them as warning items pursuant to § 190.205. The warnings were for:

> 49 C.F.R. § 195.61 **(Item 1)** – Respondent's alleged failure to submit National Pipeline Mapping System (NPMS) data for the Healdton to Yantis pipeline system for calendar year 2017; and
>
> 49 C.F.R. § 195.412(a) **(Item 3)** – Respondent's alleged failure to inspect the surface conditions on and adjacent to its pipeline right-of-way at intervals not exceeding 3 weeks, but at least 26 times each calendar year.

DLP presented information in its Response showing that it had taken certain actions to address Item 1. Under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred. If OPS 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 KRAMER MAYBERRY Digitally signed by ALAN KRAMER MAYBERRY Date: 2020.05.22 15:01:30 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

May 28, 2020
Date Issued