

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 4, 2019

Ezra Uzi Yemin
President and CEO
Delek US Holdings, Inc.
7102 Commerce Way
Brentwood, Tennessee 37027

CPF 4-2019-5018

Dear Mr. Yemin:

From December 17, 2018 through June 21, 2019, 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 (U.S.C.) inspected your subsidiary, Delek Crude Logistics, LLC, 's (Delek) - Healdton to Yantis, 8" hazardous liquid pipeline system near Dallas, Texas.

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. § 195.61 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 is 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.

Delek failed to submit National Pipeline Mapping System data for its 143 mile Healdton to Yantis, 8" pipeline system to PHMSA on or before June 15, 2018, for calendar year 2017 as required by § 195.61(b).

Delek did not submit the required information until June 13, 2019, one year beyond the submittal date for calendar year 2017.

2. § 195.64 National Registry of Pipeline and LNG Operators.

(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.

(2) An operator must notify PHMSA of any following event not later than 60 days after the event occurs:

(iv) The acquisition or divestiture of 50 or more miles of pipeline or pipeline system subject to this part.

Delek failed to notify PHMSA within 60 days of the acquisition of an existing pipeline facility as required by § 195.64(c)(2).

Delek purchased the Healdton to Yantis, 8" pipeline from Plains Pipeline on September 15, 2017 (Notification D-20171114-17567). Delek was required under § 195.64(c)(2) to file a notice of acquiring within 60 days. The 60-day filing by Delek should have occurred no later than November 14, 2017. As of the date of this letter, Delek has not filed the notification.

3. § 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Delek failed 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 as required by § 195.412(a).

During the PHMSA inspection, Delek provided only 19 records for calendar year 2018, 7 less than the required 26 minimum. Delek personnel were not able to provide the remaining records or provide information regarding the lack of the required record. There is therefore no evidence that Delek conducted the missing 7 inspections.

4. § 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).

Delek's written Public Awareness Program (PAP) failed to follow the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 in 6 areas as required by § 195.440(a). Delek's PAP was inadequate because it failed to follow general program recommendations of API 1162 as required in Sections 2, 3, 6 and 8.

1. Delek failed to demonstrate adequate management support as required by API RP 1162. Section 2.5 in API RP 1162 requires that management "*demonstrate its support [of PAP] through [1] company policy, [2] management participation, and [3] allocation of resources and funding.*"

During the review of the Delek's PAP contained within its Operations & Maintenance Manual (OM-ADM-195), it was noted that the procedure did not contain a company policy statement concerning public awareness or provide any indication that management had committed to assuring resources and funding would be allocated to ensure the successful implementation of the Delek PAP.

2. Delek failed to identify the specific systems and assets that are to be included in the Delek PAP.

Section 2.7 in API RP 1162 requires identification of pipeline assets to be included within the program for overall program administration and development of a program that applies to each identified asset-specific program.

During the PHMSA inspection, Delek personnel referenced Section 1.1.4-Pipelines Covered; Table 1-2: Delek Logistics Assets. However, upon review, the table was blank and did not identify any assets. According to the notification received from Plains Pipeline (D-20171114-17567), Delek acquired the Healdton to Yantis, 8" effective September 15, 2017 and those assets were not included in the PAP.

3. Delek failed to identify the audience that should received the PAP's messages and failed to define the communication coverage area (buffer) and include detail on how this coverage area for outreach and notification, delivery methods and delivery frequencies fit its particular pipeline, location and potential impact consequences in the Delek PAP.

Section 3.0 in API RP 1162 requires a PAP to "*identify the audience(s) that should receive the program's messages.*"

4. Delek failed to include a procedure to ensure that a supplemental review is conducted as prescribed by API RP 1162 Section 6.1 in the Delek PAP.

Section 6.1 in API RP 1162 states that "*an operator should consider external factors along the pipeline system and determine if some additional level of public awareness communications is warranted, beyond the recommended baseline program.*" During the review of the Delek PAP in its Operations & Maintenance Manual (OM-ADM-195), it was noted that there were no procedures that included criteria or relevant factors to consider for determining whether supplemental enhancements are necessary.

5. Delek failed to include a procedure that measures the bottom-line results of the PAP by tracking third-party incidents and consequences including: (1) near misses, (2) excavation damages resulting in pipeline failures and (3) excavation damages that do not result in pipeline failures in the Delek PAP.

Section 8.4.4 in API RP 1162 states that "*One measure of the "bottom-line results" is the damage prevention effectiveness of an operator's Public Awareness Program and the change in the number and consequences of third-party incidents.*" During the review of the Delek PAP, it was noted that it did not include a procedure that specifies how Delek will track near misses, hits and failures, and will measure these results.

6. Delek failed to include a procedure that specifies how self-assessments and effectiveness evaluations will be conducted in the Delek PAP.

Section 8 in API RP 1162 states that “*The overall written plan for the Public Awareness Program should include a section describing the operator’s evaluation program that includes the baseline elements.*” During the review of the Delek PAP, it was noted that it did not include a procedure that specifies how program implementation and effectiveness will be periodically evaluated.

5. § 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.

Delek failed to conduct an inspection of each 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.

Delek acquired the Healdton to Yantis, 8” pipeline system in September 2017. During the PHMSA inspection, records of atmospheric corrosion inspections were requested, however, Delek representatives stated that no atmospheric corrosion inspections had been conducted and could find no records to show the previous operator had conducted the inspection. The Delek Hazardous Liquids Operations & Maintenance Manual (OM-ADM-195); Section 14- Atmospheric Corrosion; 14.5.4.2 notes the requirement for the inspection as “*Onshore pipelines exposed to the atmosphere are inspected every 3 years at intervals not exceeding 39 months for signs of corrosion as described in Delek Logistics Corrosion Control Manual. Delek Logistics personnel must record atmospheric corrosion inspections on Appendix 14.2, Atmospheric Corrosion Inspection Report.*” There is therefore no evidence that Delek inspected the pipeline for evidence of atmospheric corrosion.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,467 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum

penalty not to exceed \$2,132,679. 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 for the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$19,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item Number 2	\$19,000

Warning Items

With respect to Items 1 and 3, 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 item(s). Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 2, 4, and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Delek Crude Logistics, 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 4-2019-5018** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest
Pipeline and Hazardous Materials Safety Administration

cc: Michael Odigie, Vice President of Integrity, Delek Crude Logistics, LLC, 12700 Park Central Drive, Suite 1500, Dallas, Texas 75251

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 Crude Logistics, LLC, (Delek) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Delek with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to Delek's failure to notify PHMSA of the acquisition of the Healdton to Yantis, 8" pipeline system, Delek must file this notification in accordance with § 195.64.
2. In regard to Item Number 4 of the Notice pertaining to Delek's failure to follow general Public Awareness Program (PAP) recommendations of API 1162 as required in Sections 2, 3, 6 and 8, Delek must:
 - 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 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 Delek PAP. Delek must identify audience that receives PAP messages in coverage area for outreach and notification in accordance with §195.440(c).
 - d. Include a procedure for a supplemental review in the written Delek PAP, Delek 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 that measures the bottom-line results of the program by tracking third-party incidents and consequences including: (1) near misses, (2) excavation damages resulting in pipeline failures and (3) excavation damages that do not result in pipeline failures in the written Delek PAP, Delek must provide bottom line result measures in accordance with § 195.440(c).
 - f. Include a procedure that specifies how self-assessments and effectiveness evaluations will be conducted in the written Delek PAP, Delek must specify how program implementation and effectiveness will be evaluated in accordance with § 195.440(i).
5. In regard to Item Number 5 of the Notice pertaining to Delek's failure to conduct atmospheric corrosion control inspections of exposed pipeline, Delek must conduct atmospheric corrosion inspections of exposed pipeline and pipeline facilities as required by § 195.583(a).
6. Delek must complete Item Number 2 within 30 days, and Item Numbers 4 and 5 within 60 days following the receipt of Final Order.

7. 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 Mary L. McDaniel, 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.