

NOTICE OF AMENDMENT

VIA ELECTRONIC MAIL TO: jim.fedena@pbfenergy.com

December 26, 2023

Mr. Jim Fedena
Senior Vice President, Logistics
Delaware Pipeline Company LLC
1 Sylvan Way, 2nd floor
Parsippany, New Jersey 07054

CPF 1-2023-061-NOA

Dear Mr. Fedena:

From February 28 to March 2, 2023, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Delaware Pipeline Company LLC's (DPC) procedures for maintenance and normal operations as part of an integrated inspection in Delaware City, Delaware.

As a result of the inspection, PHMSA has identified the apparent inadequacies found within DPC's plans or procedures. The items inspected and the inadequacies are described below.

1. **§ 195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a)
 - (e) ***Emergencies.*** The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs:
 - (1)
 - (2) **Prompt and effective response to a notice of each type of emergency, including fire or explosion occurring near or directly involving a pipeline facility, accidental release of hazardous liquid or carbon dioxide from a pipeline facility, operational failure causing a hazardous condition, and natural disaster affecting pipeline facilities.**

DPC's written emergency procedures for providing prompt and effective response to a notice of each type of emergency were inadequate to ensure safe operation of a pipeline. Specifically,

DPC's *Delaware Response Plan - Delaware Response Zone, dated 8/22/2022* (Delaware Response Zone Procedures), failed to provide a detailed Emergency Response Plan in case of an operational failure causing a hazardous condition as is required by § 195.402(e)(2).

During the inspection, PHMSA reviewed DPC's Delaware Response Zone Procedures, regarding the specific emergencies considered as part of the company's response plan. Pages 2-3 of said procedure stated in part: "These emergencies are discussed in the order listed below: Spills, Fire and/or Explosions, Medical Emergency / Personal Injury, Natural Disaster / Severe Weather, Security-Related Incidents, Evacuation". The listed emergencies were noted in DPC's Delaware Response Zone Procedures; however, the procedures did not include provisions to adequately address operational failure causing a hazardous condition, as required by § 195.402(e)(2).

Therefore, DPC's written procedures were inadequate to demonstrate compliance with § 195.402(e)(2). DPC must revise its emergency procedures to address operational failures causing hazardous conditions.

2. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a)

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1)

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

DPC's written procedures for operating and maintaining its pipeline in accordance with requirements of Subpart F of 49 CFR Part 195 were inadequate to ensure safe operation of a pipeline facility. Specifically, DPC's *DOT Compliance Manual, CV-003 Pipeline and Tank Maintenance, Rev. 5* (Pipeline and Tank Maintenance Procedures), paraphrased the regulatory text and failed to provide sufficient details on the process(es) that will facilitate compliance with the requirements of § 195.436.

Section 195.436 requires that "Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry."

During the inspection, PHMSA reviewed DPC's Pipeline and Tank Maintenance Procedures regarding DPC's procedures on security of facilities pursuant to § 195.436. The procedure stated in part: "Each pump station, breakout tank and other exposed facility shall be provided with protection from vandalism and unauthorized entry. As a minimum, pump stations and breakout tanks shall be provided with appropriate fencing"; however, the term "appropriate fencing" was not defined.

Therefore, DPC's written procedures were inadequate because they failed to provide sufficient details on the process(es) that demonstrate compliance with § 195.402(a) as it pertains to

§ 195.436. DPC must revise its written procedures to address what constitutes appropriate fencing.

3. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a)

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1)

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

DPC's written procedures for determining the effectiveness of its procedures used in normal operation and maintenance were inadequate to ensure safe operation of a pipeline facility. Specifically, DPC's *DOT Compliance Manual, CV-000-B System Operating Manuals, Rev. 4, dated 2/14/2023* (System Operating Manual). DPC's System Operating Manual failed to provide sufficient details on the process(es) that will facilitate compliance with the requirements of §195.402(c)(13).

During the inspection, PHMSA reviewed DPC's System Operating Manual regarding the company's procedures pertinent to § 195.402(c)(13). Section 1.3 of said manual described annual review of the company's operating manuals and stated the company's intention to comply with §195.402(c)(13); however, the manual failed to provide sufficient details of the process used for determining the effectiveness of procedures that are utilized in normal operation and maintenance. DPC then provided its *DOT Compliance Manual, CV-011, Training, Section 1.6.2* (Training Manual); however, that manual described evaluation of employees' knowledge and understanding of the procedures, but failed to provide sufficient details on the process(es) that will facilitate compliance with the requirements of §195.402(c)(13).

Therefore, DPC's written procedures pertaining to §195.402(c)(13) are inadequate to demonstrate compliance. DPC must revise its written procedures to address the deficiency discussed above.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. 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. Be advised that all material you submit in response to this enforcement action is subject to being 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, revised procedures, or a request for a hearing under §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 an Order Directing Amendment. If your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.206). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 30 days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

It is requested that Delaware Pipeline Company LLC maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Robert Burrough, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 1-2023-061-NOA** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

P.P.

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: Response Options for Pipeline Operators in Enforcement Proceedings