



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

1200 New Jersey Avenue, SE
Washington, DC 20590

April 8, 2025

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

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

Re: 1-2023-062-NOPV

Dear Mr. Fedena:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a Civil Penalty in the amount of \$50,200.

When the civil penalty has been paid and the terms of the compliance order are completed, as determined by the Director, Eastern Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 CFR § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER MAYBERRY
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KRAMER MAYBERRY
Date: 2025.04.02
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Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure (Final Order and NOPV)

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA

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

Delaware Pipeline Company, LLC,

Respondent.

CPF No. CPF 1-2023-062-NOPV

FINAL ORDER

From March 28 to March 29, 2023, 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 integrated inspection of Delaware Pipeline Company, LLC's (DPC or Respondent) pipeline facilities.

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated October 18, 2023, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 CFR § 190.207, the Notice proposed finding that DPC had violated 49 CFR § 195.583(a) and proposed assessing a penalty of \$50,200.

DPC responded to the Notice by letter dated April 26, 2024 (Response). In its Response, DPC contested Item 1. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 CFR Part 195 as follows:

Item 1: The Notice alleged that Respondent violated § 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 § 195.583(a) by failing to monitor and conduct inspections on portions of its pipeline that are exposed to the atmosphere for evidence of atmospheric corrosion. Specifically, the Notice alleged that PHMSA inspectors observed multiple sections of pipe in subsurface vaults that had evidence of corrosion, inadequate coating and coating deterioration.¹ The first section involved pipe in subsurface vaults upstream and downstream of block valves #297 and #208. In this section, inspectors observed corrosion and inadequate protective coating. The other pipes at issue were located at block valves #203 and #210, where an inspector also observed corrosion and coating deterioration.²

Following inspection, PHMSA requested records demonstrating that DPC had been monitoring these sections for atmospheric corrosion in accordance with the regulation. However, DPC failed to provide such records.³ PHMSA also requested DPC's written procedures requiring pipe in subsurface vaults that is exposed to the atmosphere to be monitored under an atmospheric corrosion program, but DPC was unable to provide such procedures.⁴

In its Response, DPC contested Item 1, but did not assert that it had inspected the sections of pipe at issue. Instead, DPC stated it had not conducted inspections on these sections of pipe in vaults because the vaults "were generally submerged in water due to a high water table."⁵ DPC stated it "assumed the pipe in the vaults did not meet the requirements of 195.583(a) due to the impact of groundwater intrusion."⁶ DPC further explained it coated the pipe to provide additional corrosion resistance. DPC also indicated that following PHMSA's inspection it buried

¹ See CPF 1-2023-062-NOPV, at 1-2.

² *Id.*

³ See Eastern Region Recommendation, at 2.

⁴ *Id.*

⁵ *Id.*, at 1-2.

⁶ *Id.*, at 2.

the sections of pipe at issue⁷ and has performed atmospheric inspections of all vaults and exposed pipe⁸ in response to the Notice.

Having reviewed the record, I find that Respondent failed to inspect portions of pipeline that are exposed to the atmosphere within subsurface vaults in violation of § 195.583(a). DPC failed to account for the rise and fall of the water table throughout the year, leaving its pipe exposed to the atmosphere, as observed by PHMSA during the inspection. While PHMSA appreciates DPC's mitigation actions and subsequent monitoring of pipe following the inspection, DPC did not previously monitor the implicated sections of pipe as required. Subsurface vaults such as the sections in question may be exposed to atmospheric corrosion and are not excluded from the requirements of § 195.583(a). PHMSA Part 195 Corrosion Guidance specifically names vaults as an example for probable violations regarding § 195.583(a).⁹ DPC's failure to monitor these portions of the pipeline constitutes a violation. Accordingly, based on a review of all the evidence, I find Respondent violated § 195.583(a).

This finding of violation will be considered a prior offense 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 exceeding \$200,000 per violation for each day of the violation, with a maximum administrative civil penalty exceeding \$2,000,000 for any related series of violations.¹⁰

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 CFR § 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; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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 \$50,200 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$50,200 for Respondent's violation of § 195.583(a), for failing to monitor portions of the pipeline that are exposed to the atmosphere

⁷ *Id.*, at Attachment 1.

⁸ *Id.*, at Attachment 2.

⁹ See Eastern Region Recommendation at 3; See also PHMSA Part 195 Corrosion Guidance, at page 92, https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/Corrosion_Enforcement_Guidance_Part195_6_22_2016.pdf.

¹⁰ These amounts are adjusted annually for inflation. See 49 CFR § 190.223 for adjusted amounts.

for evidence of atmospheric corrosion. Specifically, DPC failed to monitor portions of pipelines exposed to the atmosphere within subsurface vaults. In its Response, DPC did not present any evidence or argument justifying a reduction or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$50,200 for violation of 49 CFR § 195.583(a).

Based upon the foregoing, I assess a civil penalty amount of **\$50,200** for the violation of 49 CFR § 195.583(a).

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. Federal regulations (49 CFR. § 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.

Under 49 CFR § 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. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 CFR § 190.243. The 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 CFR § 190.5.

ALAN KRAMER MAYBERRY
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 Date: 2025.04.02 14:21:55 -04'00'

April 8, 2025

Alan K. Mayberry
 Associate Administrator
 for Pipeline Safety

Date Issued



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

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

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

December 28, 2023

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

CPF 1-2023-062-NOPV

Dear Mr. Fedena:

From March 28 to March 29, 2023, 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 Delaware Pipeline Company LLC's (DPC) pipeline facilities as part of an integrated inspection from Delaware City, DE, to Twin Oaks, PA.

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

1. **§ 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

DPC failed to monitor portions of the pipeline that are exposed to the atmosphere for evidence of atmospheric corrosion. Specifically, DPC failed to conduct inspections on portions of pipeline that are exposed to the atmosphere within subsurface vaults as required by § 195.583(a). Subsurface vaults are underground structures that may be entered and may contain piping and piping components, such as valves and pressure regulators. These piping and piping components may be exposed to atmospheric corrosion, and therefore are required to be inspected pursuant to § 195.583(a) for evidence of atmospheric corrosion.

During the inspection, PHMSA observed that sections of pipe in subsurface vaults upstream and downstream of block valves #207 and #208 were exposed to the atmosphere and bore evidence of corrosion and inadequate protective coating. Similar conditions were observed at block valve #203, and block valve #210, with significant coating deterioration at block valve #210. PHMSA then requested records to confirm that these sections of pipe were being monitored for atmospheric corrosion; however, DPC was unable to provide any records. PHMSA also requested written procedures requiring pipe in subsurface vaults which was exposed to the atmosphere to be considered under an atmospheric corrosion program. However, DPC could not furnish such procedures, nor provide engineering justification as to why that pipe was not being monitored for atmospheric corrosion.

Therefore, DPC failed to monitor portions of the pipeline that are located within subsurface vaults and exposed to the atmosphere for evidence of atmospheric corrosion as required by § 195.583(a).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022, and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021, and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019, and before January 11, 2021, the maximum penalty may not exceed \$218,647 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 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violation and recommend that you be preliminarily assessed a civil penalty of \$50,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$50,200

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 1-2023-062-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

P.P. CATHERINE B WASHABAUGH

Digitally signed by CATHERINE B
WASHABAUGH
Date: 2023.12.28 14:16:44 -05'00'

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

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*