

**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.

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

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