

**NOTICE OF PROBABLE VIOLATION  
PROPOSED CIVIL PENALTY**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

May 2, 2012

Mr. Emmett Reagan  
Senior VP Refining - SW Region  
Western Refining SW, Inc  
123 W. Mills Avenue  
El Paso, TX 79901

**CPF 4-2012-5017**

Dear Mr. Reagan:

On July 11-15 and September 12-15, 2011, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Western Refining SW, Inc's (WNR) procedures and records for Operations and Maintenance and Control Center Operations in Bloomfield, NM.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
  - (a) **General.** Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

§195.410 Line markers.

- (c) Each operator shall provide line marking at locations where the line is above ground in areas that are accessible to the public.

WNR was not following their procedures to install markers at several aboveground facilities. WNR provided a copy of the WNR O&M Manual, 7.0 Subpart F - Operations and Maintenance Procedures section 7.9 Markers for Pipelines and Facilities, section 7.9.3 Aboveground Facilities, page 7 of 23, November 2010 and it states:

“Identify aboveground facilities (exposed pipelines, pipe spans, meter stations, valve sites, pump stations, well sites, breakout tank area etc.) with a sign that contains, at a minimum, the Company name and logo, and emergency telephone numbers. Must have Facility Name and/or Mile Post Number, Latitude, Longitude, Section Township and Range, 24-hour Emergency Contact Number. Place signs near the aboveground facilities where the public can readily see them. Such signs should be readily visible from the closest road if one is nearby. These signs will be white in color, 24” x 24” with standard size lettering in black with the emergency lettering in red.”

During the field inspection, the inspector noted in his field book that several facilities were in need of signage: Block Valve 9A, Smith Lake Block Valve 3, and Standing Rock Thermoelectric Generator, signage was missing.

On October 6, 2011, WNR personnel provided digital photos showing that signage had been installed at the following locations: Block Valve 9A, and Smith Lake Block Valve 3. WNR provided a digital photo of Standing Rock Thermoelectric Generator on February 23, 2012. No issues remain.

## 2. §195.432 Inspection of in-service breakout tanks.

- (b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to API Standard 653 (incorporated by reference, see § 195.3). However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3).**

- (d) The intervals of inspection specified by documents referenced in paragraphs (b) and (c) of this section begin on May 3, 1999, or on the operator's last recorded date of the inspection, whichever is earlier.

WNR failed to inspect the physical integrity of the in-service Breakout Tank #960 within the timeframe required. The tank was constructed in 1996 and as of the date of this inspection has not had an out-of-service internal inspection as required by Section 6 of API 653. Per 195.432(d), ‘The intervals of inspection specified by documents referenced in paragraphs (b) and (c) of this section begin on May 3, 1999...’ and API 653 section 6.4.2.2 states ‘When corrosion rates are not known and similar service experience is not available to estimate the bottom plate minimum thickness at the next inspection, the internal inspection interval shall not exceed 10 years.’ For tanks constructed prior to

May 3, 1999 where a previous internal inspection has not been performed, an internal inspection is required by May 3, 2009.

The operator provided copies of the Annual Above Ground Storage Tank Visual Inspection Reports for Tank ID #960 completed on 10/15/2009 and 11/5/2010. Both reports contain notes that state ‘An internal inspection of Tank 960 has not been performed within the 10 year period required by Section 6 of API 653. Tanks in similar service have been inspected. Western Pipeline may elect to use the inspections from Tank 973 and 1510 internal inspections.’ WNR provided a copy of the Breakout Tank Form 10 data sheet that verifies that Tank #960 is on a 10 year internal inspection interval. Appendix C of the WNR O&M Manual confirms that the operator will perform an internal inspection as required by Section 6 of API 653 with the interval beginning on May 3, 1999.

WNR informed the PHMSA inspector that an out-of-service internal inspection was scheduled for October 2011 on Tank #960.

On February 23, 2012, WNR provided a copy of the Out of Service (Internal) - Above Ground Storage Tank Visual Inspection Report dated 10/28/2011 and a copy of the Tank 960 Floor Scan and Ultrasonic Thickness Results - API 653 Minimum Thickness for Tank Bottom Plate calculations dated 11/14/2011.

**3. §195.589 What corrosion control information do I have to maintain?**

- (c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to Secs. 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.**

§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

- (b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.
- (c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by Sec. 195.581.

WNR failed to maintain records required by the regulations. Specifically, when asked during the inspection WNR was unable to provide the atmospheric corrosion inspection records for the years 2007 and 2010 for the following sites: Smith Lake Valve (East Line), Valve 9A (West Line), Hospah Station (East Line) and Standing Rock Station (West Line). The WNR O&M Manual, Section 9 Subpart H - Corrosion Control Procedures, section 9.7.3 Atmospheric Corrosion Monitoring and Inspection Frequency states:

“The Maintenance Manager shall be responsible for the inspection program of all aboveground pressure piping and structural components for atmospheric corrosion at least once every 36 months but not to exceed 39 months using the **OM-301 Atmospheric Corrosion Inspection Report**, Refer to CFR 49 Part 195.583.”

Section 9.7.5 Documentation of the WNR O&M Manual states:

“Retain records in the local office as long as the facility remains in service or for 5 years; whichever is greater.”

WNR failed to retain atmospheric corrosion control records for the following locations: Smith Lake Valve (East Line), Valve 9A (West Line), Hospah Station (East Line) and Standing Rock Station (West Line) for the required 5 year period.

On July 29, 2011, WNR provided the atmospheric corrosion control inspection records for the above mentioned sites for the year 2010. No records were provided for the year 2007.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$37,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$28,700
3	\$8,900

Warning Items

With respect to item 1, 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 this item. Be advised that failure to do so may result in Western Refining SW, Inc being subject to additional enforcement action.

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. 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). 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.

In your correspondence on this matter, please refer to **CPF 4-2012-5017** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

R. M. Seeley  
Director, SW Region  
Pipeline and Hazardous Materials  
Safety Administration

Enclosures: *Response Options for Pipeline Operators in Compliance Proceedings*