

## NOTICE OF AMENDMENT

### **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 4-2012-5018M**

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 for Operations and Maintenance and Control Center Operations in Bloomfield, NM.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within WNR's plans or procedures, as described below:

**1. §195.222 Welders: Qualification of welders.**

- (a) Each welder must be qualified in accordance with section 6 of API 1104 (incorporate by reference (IBR), see § 195.3) or section IX of the ASME Boiler and Pressure Vessel Code, (IBR, see § 195.3) except that a welder qualified under an earlier edition than listed in § 195.3 may weld but may not re-qualify under that earlier edition.**

**(b) No welder may weld with a welding process unless, within the preceding 6 calendar months, the welder has—**

**(1) Engaged in welding with that process; and**

**(2) Had one welded tested and found acceptable under section 9 of API 1104 (IBR, see § 195.3).**

The WNR O&M Manual, Section 5.3 Welder Qualification and Testing Procedures state 'Each welder must be qualified in accordance with API Standard 1104, Section 6 or ASME Boiler and Pressure Vessel Code, Section IX. This procedure fails to specify the edition of either standard that is being used by WNR.

In the Federal Regulations 49 CFR Part 195.3, the 20<sup>th</sup> edition of API 1104, Section 6 and the 2007 edition of ASME Boiler and Pressure Vessel Code, Section IX are incorporated by reference (IBR). WNR procedures should require the use these editions of the above mentioned standards for qualifying and testing of welders.

On February 24, 2012, WNR submitted a revised copy of the O&M Manual, Section 5.3 Welder Qualification and Testing Procedures that includes the requested modifications. No issues remain with this item.

## **2. §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.**

§195.64 National Registry of Pipeline and LNG Operators.

(a) OPID Request. Effective January 1, 2012, each operator of a hazardous liquid pipeline or pipeline facility must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has primary responsibility. To obtain an OPID or a change to an OPID, an operator must complete an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Pipeline and LNG Operators in accordance with § 195.58.

(b) OPID validation. An operator who has already been assigned one or more OPID by January 1, 2011 must validate the information associated with each such OPID through the National Registry of Pipeline and LNG Operators at

<http://opsweb.phmsa.dot.gov>, and correct that information as necessary, no later than June 30, 2012.

(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.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs \$10 million or more. If 60 day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable;

(ii) Construction of 10 or more miles of a new hazardous liquid pipeline; or

(iii) Construction of a new pipeline facility.

The WNR O&M Manual does not have a section in Chapter 3 Subpart B - Reporting Procedures that address the requirements of 195.64 National Registry of Pipeline and LNG Operators. Chapter 3.0 of the WNR O&M Manual must be amended to address the requirements of 195.64.

The Federal Regulations 49 CFR Part 195 was amended on November 26, 2010 by Amendment 195-95. This amendment added section 195.64 National Registry of Pipelines and LNG Operators to the regulations. This section of the code requires that an operator validate OPIDs received prior to 1/1/2011 and that the registry be notified for various changes to pipelines and facilities. The changes include construction costing \$10 million or more, construction of 10 or more miles of pipeline, and construction of a new pipeline facility.

On February 23, 2012, WNR submitted a revised copy of the O&M Manual, 3.0 Subpart B - Reporting Procedures that includes the requested modifications. No issues remain with this item.

§195.446 Control room management.

(b) Roles and responsibilities. Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, an operator must define each of the following:

(1) A controller's authority and responsibility to make decisions and take actions during normal operations;

- (2) A controller's role when an abnormal operating condition is detected, even if the controller is not the first to detect the condition, including the controller's responsibility to take specific actions and to communicate with others;
  - (3) A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others; and
  - (4) A method of recording controller shift-changes and any hand-over of responsibility between controllers.
- (c) Provide adequate information. Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:
- (5) Implement section 5 of API RP 1168 (incorporated by reference, see § 195.3) to establish procedures for when a different controller assumes responsibility, including the content of information to be exchanged.
- (d) Fatigue mitigation. Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined:
- (1) Establish shift lengths and schedule rotations that provide controllers off-duty time sufficient to achieve eight hours of continuous sleep;
  - (2) Educate controllers and supervisors in fatigue mitigation strategies and how off-duty activities contribute to fatigue;
  - (3) Train controllers and supervisors to recognize the effects of fatigue; and
  - (4) Establish a maximum limit on controller hours-of-service, which may provide for an emergency deviation from the maximum limit if necessary for the safe operation of a pipeline facility.

The WNR Pipeline Control Center Operations Manual section 300 Roles and Responsibilities does not clearly define the Roles and Responsibilities of a controller during normal operations, during an abnormal operation, or during an emergency. Procedures must define the controller's role for the previously mentioned situations. The procedures should clearly define the controller's level of authority and authorized actions. The processes must assure that only qualified individuals may assume control at any desk/console. The processes should specify that a Supervisor may direct and/or advise a controller on specific actions only if the Supervisor is a qualified controller. The processes should address break coverage etc. WNR must modify the Control Center Operations Manual to define the controller's Roles and Responsibilities.

On February 23, 2012, WNR submitted a revised copy of the Pipeline Control Center Operations Manual section 300 Roles and Responsibilities and copies of section 1000 Normal Operating Procedures and section 2000 Abnormal Operating Conditions that include the requested modifications. No issues remain with this item.

§195.446 Control room management.

- (c) Provide adequate information. Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:
  - (1) Implement API RP 1165 (incorporated by reference, see § 195.3) whenever a SCADA system is added, expanded or replaced, unless the operator demonstrates that certain provisions of API RP 1165 are not practical for the SCADA system used;
  - (2) Conduct a point-to-point verification between SCADA displays and related field equipment when field equipment is added or moved and when other changes that affect pipeline safety are made to field equipment or SCADA displays;

The WNR Pipeline Control Center Operations Manual includes section 402 - Pipeline SCADA Displays and API RP - 1165 and section 403 - Point-to-Point Verification that address the use of API RP-1165 and the use of a point-to-point surveys. The procedures lack processes for normal operations and maintenance that will assure safe and reliable pipeline operations.

On February 23, 2012, WNR submitted a copy of the Pipeline Control Center Operations Manual section 1000 Normal Operating Procedures that includes the requested requirements. No issues remain with this item.

§195.446 Control room management.

- (c) Provide adequate information. Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:
  - (3) Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months;

The WNR Pipeline Control Center Operations Manual, section 404 Internal Communications Plan (ICP) does not contain procedures for an ICP. Section 404 makes reference to 'any ICP'. There must be procedures in place to provide sufficient internal communication to

allow for manual control of the pipeline. The procedures should require test and verification of the ICP at least once per calendar year, not to exceed 15 months.

On February 23, 2012, WNR submitted a revised copy of the Pipeline Control Center Operations Manual section 404 Internal Communications Plan (ICP) that includes the requested modifications. No issues remain with this item.

§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 WNR O&M Manual Section 9 Subpart H - Corrosion Control Procedures, section 9.7.3 Atmospheric Corrosion Monitoring and Inspection Frequency fails to make reference to the proper inspection interval. Per §195.583 (a), the proper inspection interval for onshore pipelines is 'At least once every 3 calendar years, but with intervals not exceeding 39 months.' The WNR procedure has an interval defined as 'at least once every 36 months but not to exceed 39 months.' Using 36 months as the basis, the operator could miss an inspection in the 3<sup>rd</sup> calendar year.

On February 29, 2012, WNR submitted a revised copy of the WNR O&M Manual Section 9 Subpart H- Corrosion Control Procedures, section 9.7.3 Atmospheric Corrosion Monitoring and Inspection Frequency that includes the requested modifications. No issues remain with this item.

**3. §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.**

- (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:

- (2) Gathering of data needed for reporting accidents under Subpart B of this part in a timely and effective manner.

§195.52 Immediate notice of certain accidents.

(b) Information required. Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202-267-2675) or electronically at <http://www.nrc.uscg.mil> and must include the following information:

- (1) Name, address and identification number of the operator.
- (2) Name and telephone number of the reporter.
- (3) The location of the failure.
- (4) The time of the failure.
- (5) The fatalities and personal injuries, if any.
- (6) Initial estimate of amount of product released in accordance with paragraph (c) of this section.
- (7) All other significant facts known by the operator that are relevant to the cause of the failure or extent of the damages.

WNR has not included the additional requirements to 195.52 (Amdt. 195-95, 75 FR 72878, November 26, 2010, eff. 1/1/2011) in the O&M Manual.

The WNR procedures fail to mention that you can make the report electronically at <http://www.nrc.uscg.mil>. The process also fails to note that the following information is needed: 1) Name, address, and identification number of the operator; and 2) Initial estimate of the amount of product released. Per 195.52(c), WNR must have a written procedure to calculate and provide a reasonable initial estimate of the amount of released product and 195.52(d) requires that an operator must provide an additional telephonic report to the NRC if significant new information becomes available during the emergency response phase of a reported event at the earliest practicable moment after such additional information becomes known.

On February 23, 2012, WNR submitted a revised copy of the O&M Manual, 3.0 Subpart B - Reporting Procedures that includes the requested modifications. No issues remain with this item.

**4. §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.**

§195.579 What must I do to mitigate internal corrosion?

- (a) General. If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.
- (c) Removing pipe. Whenever you remove pipe from a pipeline, you must inspect the internal surface of the pipe for evidence of corrosion. If you find internal corrosion requiring corrective action under Sec. 195.585, you must investigate circumferentially and longitudinally beyond the removed pipe (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the removed pipe.

The WNR form OM-403 Buried Pipeline Inspection Report was modified in February 2009 and no longer addresses the internal pipe surface inspection. The form OM-403 prior to February 2009 had a section titled Pipe-Inside Surface that captured the pertinent information from an internal pipe surface inspection. The completed OM-403 Reports for years from 2/2009, 2010, and 2011 failed to capture internal pipe surface inspections where necessary. The WNR OM-403 Buried Pipeline Inspection Report must be modified to once again provide for the documentation of the internal pipe surface inspection for evidence of internal corrosion.

On February 23, 2012, WNR submitted a revised blank copy of the OM-403 Buried Pipeline Inspection Report form dated 8/24/2011 that includes the requested modifications. No issues remain with this item.

### Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237. 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.

If, after opportunity for a hearing, 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. § 190.237). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 45 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 (not mandated) that Western Refining maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to R. M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 4-2012-5018M** and, for each document you submit, please provide a copy in electronic format whenever possible.

In regards to Items listed above, Western Refining SW, Inc. provided revised procedures via email on various dates throughout the inspection. These procedure submittals were reviewed and deemed adequate. No further action is required in response to this Notice and this case is now closed. Thank you for your cooperation.

Sincerely,

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

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