

**AMENDED NOTICE OF PROBABLE VIOLATION  
PROPOSED CIVIL PENALTY  
and  
PROPOSED COMPLIANCE ORDER**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

April 19, 2011

Mr. Michel E. Nelson  
President  
OKTEX Pipeline Company, L.L.C.  
100 West Fifth Street  
Tulsa, OK 74103-4298

**CPF 4-2011-1005**

Dear Mr. Nelson:

On February 24, 2011, OKTEX Pipeline Company, L.L.C. was issued a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In your response dated March 24, 2011, you explained that the regulation cited in Item 2 of the Notice may not apply to the listed devices because they are not pressure relieving, but pressure limiting/regulating devices. This Amended Notice is issued for the purpose of correcting the regulatory citation in Item 2.

As specified in the original Notice, on October 18-22, 2010, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your OKTEX Pipeline Company L.L.C. – El Paso (OKTEX) system located in El Paso, TX.

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. **§192.475 Internal corrosion control: General.**

**(b) Whenever any pipe is removed from a pipeline for any reason, the internal surface must be inspected for evidence of corrosion....**

OKTEX failed to perform the required inspection for the evidence of internal corrosion on a section of pipe removed from service in April 2010.

While performing pipeline patrols on March 3, 2010, OKTEX personnel discovered a Class 2 leak in a section of 3-inch pipe located on the Norteno # 4 pipeline. During the repair of this leak, company personnel discovered a second corrosion leak nearby. As a result, OKTEX removed a 12 foot section of the pipeline which included 3-inch and 4-inch pipe. The section of pipeline was replaced with 12 feet of 4-inch Fusion Bonded Epoxy Steel pipe on April 7, 2010. This replacement activity exposed the inside of the pipe and required that the internal surface be inspected.

During the records review, PHMSA inspectors inquired about an internal corrosion inspection record and learned that OKTEX personnel had not performed an internal inspection. Per OKTEX procedure 40.102A, the inspection should be recorded on the form entitled "Pipeline Inspection Program for Excavations." The Internal Corrosion section of the form has several statements that require an answer. Each statement has a drop-down menu of possible choices: 'N/A,' 'Yes,' or 'No.' The statements have a default result of N/A that would mean the internal surface of the pipe was not exposed and therefore not inspected. A 'Yes' answer means an internal surface inspection was performed and evidence of corrosion was found. A 'No' answer means the inspection was performed and evidence of corrosion was not found. OKTEX "performed an internal pipe surface inspection" and updated the Internal Corrosion section of the report on October 20, 2010. The inspection was performed using the coupon samples from the stopple fittings.

2. **§192.739 Pressure limiting and regulating stations: Inspection and testing.**
  - (a) **Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is-**
    - (2) **Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;**

At the time of the inspection, OKTEX had not determined if the pressure regulating stations have sufficient capacity to provide reliable service to the downstream facilities. OKTEX purchased the pipeline system in July 2006 from Norteno. OKTEX operates and provides the overpressure protection for the Norteno #4 and #5 pipeline systems which includes five pressure regulating stations.

There are four pressure regulating facilities on Norteno # 4:

1. Canutillo Delivery located at 6<sup>th</sup> & LA Mesa;
2. Strahan located on Strahan and La Mesa;
3. Gillette located on Gillette and La Mesa and
4. Gato located on Gato Road and La Mesa.

There is one pressure regulating facility on Norteno #5:

1. Anthony City Gate located on West Washington.

OKTEX is a subsidiary of the ONEOK Partners and utilizes the ONEOK procedures. ONEOK procedure OKSop3.160.102, section 3.11 states:

“Inspection and test pressure regulators to assure that each:

3.11.2 Is adequate from the standpoint of capacity and reliability of operation for the service intended.”

Section 6.3 states:

“Use forms OKSops3.160.102A Regulator Inspection and Testing...”

During the inspection, PHMSA noted that OKTEX did not use the forms as specified in the procedure. Instead, OKTEX provided excel spread sheet documents for pressure regulator inspections. During discussions with company personnel it was noted that OKTEX had not confirmed or determined the required capacity for the pipeline system pressure regulating stations when it was acquired from Norteno. While it appears that annual checks are made it cannot be determined if these results indicate adequate capacity since the original capacity was not determined.

### **3. §192.805 Qualification program.**

**Each operator shall have and follow a written qualification program. The program shall include provisions to:**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

On December 7, 2006, OKTEX failed to ensure through evaluation that a Company inspector was qualified to perform the covered task B31-0811: Visual Inspection of Welding and Welds. An individual conducted the visual inspection of all welds for the reconstruction of an existing 4-inch railroad crossing on the Norteno # 5 pipeline located in Anthony, TX and was not qualified under B31-0811.

The ‘Scope of Work’ for the reconstruction project, section Non-Destructive Testing, page 2, states:

“All welds will be 100% visually inspected by the Company Inspector. Tie-in welds will be visually inspected and leak (soap bubble or flame pack) tested”.

To comply with the Scope of Work and meet the requirements of §192.241 and §192.805 (b), a non-welder must be qualified to perform the task. The OKTEX Operator Qualification program requires that an individual be qualified for covered task B31-0811 to perform visual weld inspection. PHMSA reviewed the qualification records for this individual and they indicate he has never been qualified for this task.

### 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 \$35,700.00 as follows:

Item number  
2

PENALTY  
\$35,700.00

Warning Items

With respect to items 1 and 3 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 these item(s). Be advised that failure to do so may result in OKTEX being subject to additional enforcement action.

Proposed Compliance Order

With respect to item 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to OKTEX. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

In accordance with 49 C.F.R. § 190.207(c), you have the opportunity to respond to this Amended 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 choose not to respond within 30 days of receipt of this Amended Notice, the Associate Administrator for Pipeline Safety will consider your letter dated March 24, 2011, to constitute your response in this matter.

In your correspondence on this matter, please refer to **CPF 4-2011-1005** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to OKTEX Pipeline Company, L.L.C. a Compliance Order incorporating the following remedial requirements to ensure the compliance of OKTEX with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to the failure to determine the capacity of pressure regulating stations installed on OKTEX pipelines facilities, OKTEX must perform the required analysis and ensure that the pressure regulators have adequate capacity to provide reliable service to the downstream facilities as required by 49 CFR §192.739. If the pressure regulator capacity is found to be insufficient, OKTEX must install/modify the equipment to provide the required capacity.
2. OKTEX must complete item 1 of the Compliance Order within 30 days following receipt of the Final Order.
3. It is requested (not mandated) that OKTEX Pipeline Company, L.L.C. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.