

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 27, 2011

Mr. Emmett Reagan
Sr. Vice President
123 W. Mills Ave.
Western Refining Pipeline Company
El Paso, Texas 79901

CPF 4-2011-5008

Dear Mr. Reagan:

Between October 25 and November 17, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Texas-New Mexico 16" pipeline in New Mexico.

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

1. §195.420 Valve maintenance.

- (a) Each operator shall maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times.**
- (b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.**

Western Refining failed to inspect each mainline valve to determine that it is functioning properly at intervals not exceeding 7 ½ months, but at least twice each calendar year. PHMSA noted while reviewing Western Refining Pipeline Company's OM-204 Valve Inspection Reports for 2007 thru 2010 that the valve inspections were performed within 7 ½ months but they were not inspected twice during the calendar year 2009. As a result, Western Refining failed to inspect 27 valves at least twice each calendar year on the Texas-New Mexico system in 2009.

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 \$13,500.

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 4-2011-5008** 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

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