



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 9, 2011

Mr. Emmett Reagan
Senior Vice President
Western Refining SW/Western Refining Pipeline
123 West Mills Avenue
El Paso, TX 79901

CPF 4-2011-5011M

Dear Mr. Reagan:

On February 28 - March 4, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the Western Refining (WNR) procedures for the Operator Qualification Program in Bloomfield, NM.

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

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 commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

WNR's OQ Program fails to identify a review period of once each calendar year, not to exceed an interval of 15 months. The WNR OQ Program, section 11.0 Program Maintenance, page 14 of 15 states 'The written program will be reviewed every three years.' The Advisory Bulletin ADB-09-03 explains that the OQ process and procedures are an important part of the operator's manual of written procedures for normal operations, maintenance activities, and the handling of abnormal operations and emergencies. The program should be reviewed with the O&M Manual on the schedule required in 195.402(a). (Protocol 6.01)

WNR amended the procedure on March 2, 2011. PHMSA inspectors reviewed these updates and found them acceptable.

2. §195.507 Recordkeeping

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(4) Qualification method(s).

WNR qualification records do not include information identified in the regulations. During the review of the OQ records of D. Jones, PHMSA noted that he was 'not qualified' in covered task 011 Perform Internal Corrosion Remediation (a core task for his job classification). Dave Richards, WNR, stated that Mr. Jones was qualified based on his completion of certain NACE courses. The records did not include his NACE Certification courses. If WNR wants to claim Mr. Jones as qualified then the Energy World Net database and records need to be amended to show his NACE courses and his qualification in CT 011.

3. §195.505 Qualification program.

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

(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.

During the review of the WNR OQ Program, Section 10 Record Keeping, page 13-14 of 15, it was noted that no address was listed for sending notifications of significant changes. The PHMSA inspection team inquired about the address to be used for sending notifications. WNR gave the following address listed on the form OM-604 Safety Hazard Report (SHR): Department of Transportation, Office of Pipeline Safety, Research and Special Programs Administration, Information Resources Manager, 400 Seventh Street SW Room #8417, Washington, DC 20590. Advisory Bulletin ADB-09-03 states 'Operators should send notifications of significant modification of an OQ Program to U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety, Information Resources manager, 1200 New Jersey Avenue, SE., East Building, 2nd Floor (PHP-10), Room 322-321, Washington, DC 20590'. WNR had the incorrect address for sending a notification to PHMSA when a significant change has been made to the OQ Program.

WNR amended the procedure on March 3, 2011. PHMSA inspectors reviewed these updates and found them acceptable.

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 4-2011-5011M** and, for

each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. M. Seeley".

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

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