



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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*Sent Via Email and FedEx*

November 4, 2020

Bill Collins  
Director EHS&S  
Tidewater Terminal Company  
6305 Northwest Old Lower River Road  
Vancouver, WA 98660

**RE: 2020 Hazardous Liquid Drug and Alcohol Program Inspection – Tidewater Terminal Company – (Insp. No. 8078)**

Dear Mr. Collins:

Staff from the Washington Utilities and Transportation Commission (staff) conducted a Drug and Alcohol Program inspection of Tidewater Terminal Company (Tidewater), Snake River Terminal on October 12, 2020. This inspection included a review Tidewater's policy and the associated records.

Our inspection indicates two probable violations as noted in the enclosed report.

**Your response needed**

Please review the attached report and respond in writing by December 7, 2020. The response should include how and when you plan to bring the probable violations into full compliance.

**What happens after you respond to this letter?**

The attached report presents staff's decision on probable violations and does not constitute a finding of violation by the commission at this time.

After you respond in writing to this letter, there are several possible actions the commission, in its discretion, may take with respect to this matter. For example, the commission may:

- Issue an administrative penalty under [RCW 81.04.405](#); or
- Issue a complaint under [RCW 81.88.040](#), seeking monetary penalties, changes in the company's practices, or other relief authorized by law, and justified by the circumstances.

Any pipeline company that violates any pipeline safety provision of any commission order, or any rule in this chapter including those rules adopted by reference, or chapter [81.88](#) RCW is subject to a civil penalty not to exceed \$213,268 for each violation for each day that the violation persists. The maximum civil penalty for a related series of violations is \$2,132,679; or

- Consider the matter resolved without further commission action.

We have not yet decided whether to pursue a penalty or complaint in this matter. Should the commission decide to assess a penalty or initiate a complaint, your company will have an opportunity to respond and formally present its position.

If you have any questions or if we may be of any assistance, please contact Derek Norwood at (360) 259-2525. Please refer to the subject matter described above in any future correspondence pertaining to this inspection.

Sincerely,

Sean C. Mayo  
Pipeline Safety Director

Enclosure

cc: Josh Jarman, Quality and Compliance Manager, Tidewater  
Kelly Harding, Terminal Operations Manager, Tidewater  
Mark Davis, General Manager, Tidewater  
Ron McClary, Terminal Maintenance Manager, Tidewater  
Stephanie Syring, Environmental Manager, Tidewater

**UTILITIES AND TRANSPORTATION COMMISSION**  
**2020 Hazardous Liquid Pipeline Safety Inspection**  
**Tidewater Terminal Company – Snake River Terminal**

The following probable violations of Title 49 CFR Part 199 and Part 40 were noted as a result of the 2020 inspection of the Tidewater Terminal Company – Snake River Terminal. The inspection included a review of the Drug and Alcohol Policy and the associated records.

**PROBABLE VIOLATIONS**

1. **49 CFR §199.105(c) Drug tests required.**

*Each operator shall conduct the following drug tests for the presence of a prohibited drug:*

*(c) Random Testing.*

*(1) Except as provided in paragraphs (c)(2) through (4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.*

**Finding(s):**

Tidewater's process does not include all covered employees in the random testing pool. The random testing pool must include *covered employees* as defined in 49 CFR 199.3. Currently, the testing pool does not include all personnel who conduct emergency response activities including those who receive, identify, and classify notices of events which need immediate response. This would include supervisors at the Snake River Terminal and dispatchers.

2. **49 CFR §40.25(a) Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?**

*(a) Yes, as an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in paragraph (b) of this section. This requirement applies only to employees seeking to begin performing safety-sensitive duties for you for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, you must not permit the employee to perform safety-sensitive functions.*

**Finding(s):**

Tidewater did not request drug and alcohol testing records from previous employers for their two most recent new hires. Tidewater does have a procedure and record request form in place, but no records were available to show that the previous employer record checks had been completed for these two covered employees.