



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

Mr. Carlos T. Munguia  
Kinder Morgan Liquids Terminals LLC  
8500 W 68<sup>th</sup> Street  
Argo, IL 60501-0409

NOV 20 2012

1200 New Jersey Avenue SE  
Washington, DC 20590

**Docket No. PHMSA-2012-0303**

Dear Mr. Munguia:

On November 15, 2012, the Kinder Morgan Liquid Terminals (KMLT) wrote to the Pipeline and Hazardous Materials Safety Administration (PHMSA) requesting an Emergency Special Permit to waive compliance from certain hazardous liquids requirements of 49 CFR Part 195, for the operation of two terminals (Perth Amboy and Carteret) in Perth Amboy and Carteret, New Jersey<sup>1</sup>. The waiver of these requirements would allow for increased manpower to increase the output of product to near normal levels considering the damage from the recent storm and the hardship endured in this area.

PHMSA is granting this Emergency Special Permit (enclosed) which waives compliance from 49 CFR § § 195.505(c) for the above mentioned hazardous liquid facilities in Perth Amboy and Carteret, New Jersey.

PHMSA grants this emergency special permit based on the findings set forth in the enclosed "Emergency Special Permit Analysis and Findings" document. This document can be read in its entirety in Docket No. PHMSA-2012-0303, in the Federal Docket Management System (FDMS) located on the Internet at [www.Regulations.gov](http://www.Regulations.gov).

My staff would be pleased to discuss this Emergency Special Permit or any other regulatory matter with you. Please contact Byron Coy, Regional Director, PHMSA Eastern Region, 609-989-2180, for technical matters pertaining to this Emergency Special Permit, or John Gale, Director of Standards and Rulemaking, 202-366-0434, on regulatory matters.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator for Pipeline Safety

Enclosure:   Emergency Special Permit  
                  Emergency Special Permit Analysis and Findings

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<sup>1</sup> Additional letter was sent November 16, 2012 by KMLT as an addendum to their original request.

U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)  
**EMERGENCY SPECIAL PERMIT**  
**ANALYSIS AND FINDINGS**

**Emergency Special Permit Information:**

Docket Number: PHMSA-2012-0303  
Pipeline Operator: Kinder Morgan Liquids Terminals LLC  
Date Requested: October 15, 2012  
Code Section(s): 49 CFR § 195.505(c)

**Purpose:**

The Pipeline and Hazardous Materials Safety Administration (PHMSA) provides this information to describe the facts of the subject Emergency Special Permit application (application) submitted by Kinder Morgan Liquid Terminals (KMLT). Its purpose is to present the engineering/safety analysis of the application, and to make findings regarding the merit of the requested Emergency Special Permit, whether it should be granted, and if so, under what conditions.

**Pipeline System Affected:**

This Emergency Special Permit request involves two hazardous liquid terminals in Perth Amboy and Carteret, New Jersey:

- Perth Amboy (NY Harbor), NJ Terminal;
  - Size - 80 Acres
  - Storage Capacity - 3,543,388 barrels
  - Number of tanks - 113
- Carteret (NY Harbor), NJ Terminal;
  - Size - 197 Acres
  - Total Storage Capacity - 7,833,080 barrels
  - Number of Tanks - 280

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### **Emergency Special Permit Request:**

On November 15, 2012, KMLT submitted an application to PHMSA for an Emergency Special Permit seeking temporary relief from the Federal pipeline safety regulations in 49 CFR §§ 195.505(c), for the manual operation of the terminals with non-qualified personnel under direction and not under observation of a qualified individual, of the KMLT Perth Amboy and Carteret Terminals<sup>1</sup>. KMLT stated that due to the severe damage caused by super storm Sandy, the SCADA systems for the two terminals had been completely destroyed, and the tank gauging systems sustained damage. According to KMLT, this damage has caused both terminals to be operated with intensive manual intervention. An Emergency Special Permit, if granted, would allow KMLT to operate the facilities at the Perth Amboy and Carteret Terminals, in manual petroleum operation with personnel that are not qualified according to Part 195 Subpart G. These personnel will however, receive site-specific training, and already have background operational knowledge to similar facilities. These individuals would be under the direction of qualified personnel, but would not be directly observed by qualified individuals. The Federal pipeline safety regulations in 49 CFR §§ 195.505(c) require hazardous liquid pipeline operators to qualify individuals operating or performing maintenance on a hazardous liquid pipeline facility to meet minimum requirements for qualification. Any individual that is not qualified, while under training, shall be directed and observed by a qualified individual on that covered task. An Emergency Special Permit will allow KMLT to continue to operate each terminal with the use of individuals performing covered task under direction, and not under observation of qualified personnel.

### **Analysis:**

Background: In accordance with 49 USC § 60118(c)(2), PHMSA may grant an application for an Emergency Special Permit without notice and comment or hearing, if the Associate Administrator determines that such action is in the public interest, is not inconsistent with pipeline safety, and is necessary to address an actual or impending emergency involving pipeline

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transportation. For purposes of this section, an emergency event may be local, regional, or national in scope and includes significant fuel supply disruptions and natural or manmade disasters such as hurricanes, floods, earthquakes, terrorist acts, biological outbreaks, releases of dangerous radiological, chemical, or biological materials, war-related activities, or other similar events. PHMSA will determine on a case-by-case basis what duration is necessary to address the emergency. However, as required by statute, no Emergency Special Permit may be issued for a period of more than 60 days. Each Emergency Special Permit will automatically expire on the date specified in the permit. Emergency Special Permits may be renewed upon application to PHMSA only after notice and opportunity for a hearing on the renewal.

Justification for Handling as an Emergency Special Permit:

This Emergency Special Permit will allow KMLT at the Perth Amboy and Carteret Terminals, to operate the facilities in manual petroleum operation with personnel that are not qualified according to 195 Subpart G.

In its follow up request letter dated November 16, 2012, KMLT provided the following information to PHMSA concerning the reduction of throughput capacity of both terminals:

“Due to the above mentioned manual operation at both facilities our throughput is down as we are using up to six operators for what was normally performed by two. Currently we are running at 50% below normal capacity at both Carteret and Perth Amboy. In order to increase our rates we need to use additional personnel to perform the manual tank gauging, take pressure readings, attend relief devices, and start and stop pumps. Per Subpart G, Operator Qualification, these tasks are required to be performed by an OQ qualified employee, or performed by employees who are directed and observed by an OQ qualified employee”.

KMLT has received multiple inquiries from the offices of Governors, Andrew M. Cuomo of New York, and Christopher J. Christie (New Jersey), and Mayor Michael R. Bloomberg of New York, requesting updates on how we can provide additional throughput to increase the flow of product to area gas stations. They have asked KMLT company representatives what their offices can do for KML T to make this happen. Their

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offices have already requested that the Environment Protection Agency and the New Jersey Department of Environment Protection to waive air quality permit requirements, and the requests were granted.

With the requirement that all non-qualified individuals be directed by control room or onsite qualified individual during performance of covered tasks in the manual operation of Perth Amboy and Carteret, while not under observation, the granted Emergency Special Permit will be consistent with pipeline compliance.

Compliance History – 2010 through 2012: PHMSA has reviewed enforcement actions for KMLT from 2010 through 2012. Below is a listing of PHMSA closed enforcement matters of all types in all PHMSA Regions for KMLT (Operator ID 26041) from 2007 through 2012:

- Letters - of Concern or Warning - one (1) matter
- Notices – of Amendment or of Probable Violation – two (2) matters

Collected Civil Penalties - \$425,000

Based upon KMLT's enforcement history with respect to Part 195, PHMSA concludes that KMLT's past enforcement history is not in conflict with this Emergency Special Permit.

**Findings:**

Based on the information submitted by KMLT and PHMSA's analysis of the technical, operational, and safety issues, and given the conditions that will be imposed, PHMSA finds that granting this Emergency Special Permit to KMLT to operate with directed non-qualified personnel at the Perth Amboy and Carteret terminals is not inconsistent with pipeline safety.

NOV 20 2012

Completed in Washington DC on: \_\_\_\_\_

Prepared by: PHMSA Engineering and Research Division

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U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
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1200 New Jersey Avenue SE  
Washington, DC 20590

## **EMERGENCY SPECIAL PERMIT**

Docket Number: PHMSA-2012-0303  
Pipeline Operator: Kinder Morgan Liquids Terminals LLC  
Date Requested: November 15, 2012  
Code Section(s): 49 CFR § 195.505(c)

### **Grant of Special Permit:**

By this order, pursuant to 49 USC § 60118(c)(2), the Pipeline and Hazardous Materials Safety Administration (PHMSA) grants this emergency special permit, subject to the terms and conditions set forth below, to Kinder Morgan Liquid Terminals (KMLT), operator of the Perth Amboy and Carteret NJ Terminals, waiving compliance from 49 Code of Federal Regulations (CFR) § 195.505(c) for the operation of two terminals in Perth Amboy and Carteret, New Jersey as described below.

PHMSA's action is based on the findings set forth in the "*Emergency Special Permit Analysis and Findings*" document, which can be read in its entirety in Docket No. PHMSA-2012-0303 in the Federal Docket Management System (FDMS) located on the internet at [www.Regulations.gov](http://www.Regulations.gov).

### **Summary of Request:**

By letter dated November 15, 2012, the Kinder Morgan Liquid Terminals (KMLT) wrote to the



Pipeline and Hazardous Materials Safety Administration (PHMSA), requesting an Emergency Special Permit for certain provisions of Federal Safety Regulations at the Perth Amboy and Carteret Terminals<sup>1</sup>. KMLT stated that due to the severe damage caused by super storm Sandy, the SCADA systems for the two terminals had been completely destroyed, as well as damage to the tank gauging systems. According to KMLT, this damage has caused both terminals to be operated with intensive manual intervention. In normal operating conditions, it takes two personnel, who are qualified under KMLT's Operator Qualification program, to operate the terminal through coordination with the SCADA system and remote tank gauging. While in this manual petroleum operation, KMLT estimates that it will take between six to eight personnel to attain full capacity operation per terminal, per shift. Due to the damage caused by Sandy, the Carteret and Perth Amboy terminals are operating at 50% capacity. If granted, the Emergency Special Permit would allow KMLT, to operate the at the Perth Amboy and Carteret Terminals facilities in manual petroleum operation with personnel that are not qualified to Part 195 Subpart G. These personnel will however, receive site-specific training, and already have background operational knowledge to similar facilities. These individuals would be under the direction of qualified personnel, but would not be directly observed by qualified individuals.

**Emergency Special Permit Qualification of Pipeline Personnel:**

**KMLT Carteret and Perth Amboy, New Jersey**

PHMSA waives compliance from 49 CFR § 195.505(c) for the operation of the terminals in Perth Amboy and Carteret, New Jersey. The Federal pipeline safety regulations in 49 CFR § 195.505(c), require hazardous liquid pipeline operators to qualify individuals operating

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or performing maintenance on a hazardous liquid pipeline facility to meet minimum requirements for qualification. Any individual under training that is not qualified shall be directed and observed by a qualified individual on that covered task.

This Emergency Special Permit allows KMLT to continue to operate each terminal with the use of non-qualified individuals performing covered task under direction, and not under observation of qualified personnel.

**Conditions:**

PHMSA grants this Emergency Special Permit subject to the following conditions applicable to the Carteret and Perth Amboy Terminals which must be implemented by KMLT prior to increasing throughput capacity on both terminals:

- 1) KMLT must operate both terminals with at a minimum of one qualified individual in the control room, and one qualified individual onsite within the tank or valve manifold areas at each terminal. Non-qualified individuals will take direction from the control room or the onsite qualified individuals for operation;
- 2) Non-qualified individuals will be required to perform one complete shift of shadowing an onsite qualified individual before being allowed to operate under direction without observation;
- 3) Documentation of compliance with all the conditions of this Emergency Special Permit must be kept in compliance to §195.507;



- 4) Prior to using the non-qualified personnel to operate the terminals, a senior executive officer, vice president or higher, of KMLT must certify in writing the following:
  - a) The Perth Amboy and Carteret terminals meet the conditions described in this emergency special permit,
  - b) The written manual of O&M procedures for the KMLT pipeline has been updated to include all additional requirements of this special permit; and that
  - c) KMLT has implemented all conditions as required by this emergency special permit.

**Limitations:**

PHMSA grants this Emergency Special Permit subject to the following limitations:

- 1) This Emergency Special Permit shall expire on January 20, 2013, or upon completion of repairs and resumption of SCADA system and remote tank gauging operations, whichever is earlier.
- 2) PHMSA has the sole authority to make all determinations on whether KMLT has complied with the specified conditions of this emergency special permit.
- 3) PHMSA may revoke, suspend or modify this Emergency Special Permit based on any finding listed in 49 CFR § 190.341(h)(1) and require KMLT to comply with the regulatory requirements in 49 CFR § 195.505(c). As provided in 49 U.S.C. Chapter 601, PHMSA may also issue an enforcement action for failure to comply with this Order.

- 4) Should PHMSA revoke, suspend or modify this Emergency Special Permit based on any finding listed in 49 CFR § 190.341(h)(1), PHMSA will notify KMLT in writing of the proposed action and provide KMLT an opportunity to show cause why the action should not be taken. In accordance with 49 C.F.R. § 190.341(h)(3), if necessary to avoid the risk of significant harm to persons, property, or the environment, PHMSA will not give advance notice and will declare the proposed action (revocation, suspension, or modification) immediately effective.
- 5) The terms and conditions of any corrective action order, compliance order or other order applicable to a pipeline facility covered by this Emergency Special Permit will take precedence over the terms of this Emergency Special Permit in accordance with 49 CFR § 190.341(h)(4).
- 6) If KMLT sells, merges, transfers, or otherwise disposes of the assets known as the Perth Amboy and Carteret terminals, KMLT must provide PHMSA with written notice of the transfer within 30 days of the consummation date. In the event of such transfer, PHMSA reserves the right to revoke, suspend, or modify the permit if the transfer constitutes a material change in conditions or circumstances pursuant to 49 CFR § 190.341(h)(1)(ii) or any other circumstances listed under 49 CFR § 190.341(h)(1).
- 7) PHMSA grants this Emergency Special Permit for the period set forth in Item 1 above. If KMLT elects to seek renewal of this emergency special permit, KMLT must submit a full Emergency Special Permit application to the PHMSA Associate Administrator with copies to

the Regional Director, PHMSA Eastern Region. In accordance with 49 USC 60118(c)(2), PHMSA would be required to provide notice and opportunity to comment in considering any request for renewal. Any request for a renewal of this Emergency Special Permit must include a summary report of compliance of Conditions 1 through 4 above and must demonstrate that the Emergency Special Permit is still consistent with pipeline safety. PHMSA may seek additional information from KMLT prior to granting any request for renewal.

**This Emergency Special Permit to Kinder Morgan Liquids Terminals Expires on January 20, 2013**

AUTHORITY: 49 U.S.C. 60118 (c)(1) and 49 CFR § 1.53.

Issued in Washington, DC on NOV 20 2012.



Jeffrey D. Wiese  
Associate Administrator for Pipeline Safety