



U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

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

OVERNIGHT EXPRESS MAIL

October 11, 2011

David Vattimo
Regional Vice President
Kinder Morgan Liquid Terminals, LLC
8500 West 68th Street
Argo, IL 60501

CPF 1-2011-5008

Dear Mr. Vattimo:

During the months of May 2008 through December 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code conducted inspections the Kinder Morgan Liquid Terminals, LLC (KM) facility in Perth Amboy, New Jersey.

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 violations are:

1. §195.589 What corrosion control information do I have to maintain?

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to Secs. 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

KM failed to maintain records in sufficient detail to demonstrate the adequacy of corrosion control measures for the replaced line segment from Station 47+59 to 52+69 at the intersection of State Street and High Street in Perth Amboy, New Jersey.

During the inspection, a PHMSA representative discovered that the subject line segment had been replaced in the third quarter of 2007. PHMSA representative subsequently requested that KM personnel provide any and all records that showed the replacement pipe was coated in accordance with §195.557(a). KM personnel indicated that the subject line segment was coated when relocated; however, KM could not produce any records or documentation that showed the pipe was coated.

2. §195.310 Records.

(a) A record must be made of each pressure test required by this subpart, and the record of the latest test must be retained as long as the facility tested is in use.

KM failed to retain the pressure test record of the replaced pipeline segment from Station 47+59 to 52+69 at the intersection of State Street and High Street in Perth Amboy, New Jersey. The subject line was in service at the time of the inspection.

According to KM personnel, a section of pipeline at State Street and High Street was replaced and tied in to an existing pipe. Under §195.308, a pipe associated with a tie-in section must be pressure tested, either with the section to be tied into or separately. KM could not produce any records that showed compliance with the requirements prescribed in §195.310.

3. §195.404 Maps and Records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information;

(1) Location and identification of the following pipeline facilities;

(iv) Pipeline valves;

KM failed to maintain current maps and records of the Perth Amboy facility that included the location and identification of its pipeline valves.

At the time of the inspection, PHMSA requested that KM personnel provide documentation of its pipeline valves at the Perth Amboy facility. KM had no records or documentation illustrating all the pipeline valves at the Perth Amboy facility and KM personnel confirmed to a PHMSA representative that the current system maps did not identify pipeline valves.

4. §195.262 Pumping equipment.

(b) The following must be provided in each pump station:

(1) Safety devices that prevent overpressuring of pumping equipment, including the auxiliary pumping equipment within the pumping station.

KM failed to provide safety devices that prevent overpressuring of pumping equipment, including the auxiliary pumping equipment within the pumping station at the Perth Amboy facility.

During the field inspection, a PHMSA representative observed that no safety devices to prevent equipment overpressure were installed to protect pump station equipment. KM personnel stated that overpressure safety devices were not installed and that there was no need for safety devices. KM personnel did not produce any documentation to substantiate that safety devices were not required.

5. §195.589 What corrosion control information do I have to maintain?

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to Secs. 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

KM failed to maintain records of each atmospheric corrosion inspection required by §195.583(a) in sufficient detail to demonstrate the adequacy of corrosion control measures.

During the inspection, a PHMSA representative requested that KM personnel provide any and all atmospheric corrosion inspection records for the Perth Amboy facility. KM personnel could not produce any documentation relating to atmospheric corrosion inspection.

6. §195.404 Maps and Records.

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

Section 195.430(a) requires operators to ensure all firefighting equipment is in proper operating condition at all times. During the inspection, KM personnel stated that they did not have any records to show the inspection and testing of firefighting equipment at each pump station and breakout tank area in the Perth Amboy facility. KM failed to maintain records of each firefighting equipment inspection and/or test, ensuring that it is in proper operating condition.

7. §195.404 Maps and Records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information;

(3) The maximum operating pressure of each pipeline.

KM failed to maintain current maps and records that included the maximum operating pressure (MOP) of each of their jurisdictional pipeline segments in or affiliated with the Perth Amboy facility.

At the time of the inspection during the field review, a PHMSA representative requested that KM personnel provide documentation of the MOP of each pipeline segment. KM did not have any records or other related documentation demonstrating an established MOP of each pipeline segment at its Perth Amboy facility.

8. §195.505 Qualification program.

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

(a) Identify covered tasks;

KM failed to identify tank painting or the application of coatings and their repair as a covered task in its written qualification program. During the field review, it was observed that in-service breakout tanks 52 and 53 were being sand-blasted and painted by a third-party contractor. A PHMSA representative requested that KM personnel provide a list of covered tasks performed on the pipeline facility. KM personnel could not produce any documentation that showed tank painting or the application of coatings and their repair as a covered task.

9. §195.404 Maps and Records.

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

KM failed to maintain records of each breakout tank high level alarm inspection and test required by §195.428(d) for at least 2 years. In accordance with §195.428(d), overfill protection systems are required to be inspected and tested. KM could not produce any records of inspection and tests for each of the breakout tank's hi-level alarms, which are part of the overfill protection system at the Perth Amboy facility.

10. §195.404 Maps and Records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information;

(1) Location and identification of the following pipeline facilities;

(i) Breakout tanks;

KM failed to maintain current maps and records of its pipeline systems that include the location and identification of Department of Transportation (DOT) jurisdictional breakout tanks at the Perth Amboy facility.

At the time of the inspection, KM personnel provided a copy of a list dated 4/3/2008 that identified all the DOT breakout tanks at the facility. KM personnel also provided maps and drawings, all of which were inconsistent with the list. Therefore, the drawings did not accurately depict the current location and identification of breakout tanks. KM personnel acknowledged that the maps and drawings were not current.

11. §195.404 Maps and Records.

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

KM failed to maintain records of forty-four (44) tank thermal relief valve inspections on breakout tanks required by §195.428(a) for at least 2 years.

During the field inspection, a PHMSA representative observed that each of the twenty-two (22) breakout tanks had a thermal relief valve at an inlet and an outlet valve totaling forty-four (44) thermal relief valves. A PHMSA representative requested KM personnel provide any and all records pertaining to tank thermal relief valves inspection pursuant to §195.428(a). However, KM personnel could not produce any records of tank thermal relief valve inspections at the time of the inspection.

12. §195.404 Maps and Records.

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

KM failed to maintain records of routine in-service inspections on all atmospheric and low-pressure steel aboveground breakout tanks required by §195.432(b). Accordingly, API 653 paragraph 6.3.1.2 requires the interval of such inspection be consistent with conditions at the particular site, but shall not exceed one month. At the time of the inspection, KM could not produce records of monthly routine in-service inspections.

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

(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

KM failed to include a process in its corrosion control procedures to require and verify that supervisors maintain a thorough knowledge of that portion of the corrosion control procedures for which they are responsible in accordance to §195.555.

During an interview, a PHMSA representative discovered that the supervisor responsible for ensuring compliance with its corrosion control procedures did not have thorough knowledge of corrosion control. In addition, KM could not produce procedures that showed the requirement prescribed in §195.555.

After the completion of the inspection, the subject KM supervisor provided KM procedure *T-O&M 903* which documented the requirement prescribed in §195.555.

14. §194.107 General response plan requirements

(a) Each response plan must include procedures and a list of resources for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge. The “substantial threat” term is equivalent to abnormal operations outlined in 49 CFR 195.402(d). To comply with this requirement, an operator can incorporate by reference into the response plan the appropriate procedures from its manual for operations, maintenance, and emergencies, which is prepared in compliance with 49 CFR 195.402.

(c) Each response plan must include:

(iv) The name, address, and telephone number of the oil spill response organization, if appropriate,

KM failed to include the name, address and telephone number of any oil spill response organizations within its Facility Response Plan (FRP). After the inspection, KM demonstrated compliance by providing an updated FRP that included current and accurate information.

15. §195.404 Maps and Records.

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

KM failed to maintain records of each inspection and test required by §195.412(a) for the calendar year 2007. Under §195.412(a), KM shall, at interval not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface condition on or adjacent to each pipeline right-of-way (ROW). In lieu of individual inspection records, KM provided an inspection letter that stated inspections were conducted in year 2007.

16. §195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a) A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tanks.

KM failed to provide a means for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank.

Based on a field observation, it was noted that pipelines penetrating the dike walls at tanks 27, 28, and 29, were left unsealed thereby compromising containment volume. A PHMSA representative requested that KM personnel provide spill containment data on breakout tanks; however, KM could not provide any documentation.

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 violations and has recommended that you be preliminarily assessed a civil penalty of \$41,000 as follows:

Proposed Civil Penalty (Cont)

<u>Item number</u>	<u>PENALTY</u>
11	\$20,500
12	\$20,500

Warning Items

With respect to items 13-16 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 items. Be advised that failure to do so may result in KM being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 1-12 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to KM. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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.

Please address your correspondence to Byron Coy, PE, Director, PHMSA Eastern, 820 Bear Tavern Rd, Suite 103, Bear Tavern Rd, W. Trenton, NJ 08628. Please refer to **CPF 1-2011-5008** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Byron Coy, PE
 Director, Eastern 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 Kinder Morgan Liquid Terminals, LLC (KM) a Compliance Order incorporating the following remedial requirements to ensure the compliance of KM with the pipeline safety regulations:

1. Regarding Item Number 1 of the Notice pertaining to §195.589(c), KM must excavate the pipeline segment at State Street and High Street to obtain pipe coating information. KM must have a completed record including, but not limited to, pipe coating information of the subject pipe to ensure compliance with §195.557(a) within 120 days of receipt of the Final Order.
2. Regarding Item Number 2 of the Notice pertaining to §195.310(a), KM must submit documentation of the pressure test for pipeline section at State Street and High Street to ensure compliance with §195.308, within the timeframe prescribed in Item 13 of this Compliance Order. If, KM is unable to produce those records, KM must conduct a pressure test on the subject pipe and then record the results in accordance with §195.310 within 120 days of receipt of the Final Order
3. Regarding Item Number 3 of the Notice pertaining to §195.404(a)(1)(iv), KM must update maps and records to include information regarding Department of Transportation (DOT) jurisdictional pipeline valves and interconnecting pipeline segments within 120 days of receipt of the Final Order.
4. Regarding Item Number 4 of the Notice pertaining to §195.262(b)(1), KM must develop in accordance with §195.262 to address the installation of safety devices at the Perth Amboy facility or procedures that demonstrate such safety devices are not necessary for operation at the Perth Amboy facility. If KM establishes procedures to install safety devices, KM must then implement the procedures at the Perth Amboy facility and complete the installation of safety valves within 240 days of receipt of the Final Order.
5. Regarding Item Number 5 of the Notice pertaining to §195.589(c), KM must develop procedures in accordance with §195.583 to be included in KM's procedural manual for operation and maintenance. Then, KM must implement the procedures at the Perth Amboy facility. Accordingly, KM must perform atmospheric corrosion inspections on all jurisdictional above ground pipelines at Perth Amboy and perform any necessary remedial actions on identified deficiencies as delineated in the aforementioned procedures within 120 days of receipt of the Final Order.
6. Regarding Item Number 6 of the Notice pertaining to §195.404 (c)(3), KM must develop procedures in accordance with §195.430 and then implement the procedures at the Perth Amboy facility. KM must have completed records, including but not limited to, verifying that all the firefighting equipment located at the Perth Amboy facility is in proper operating condition with 180 days of receipt of the Final Order.
7. Regarding Item Number 7 of the Notice pertaining to §195.404 (a)(3), KM must submit adequate related historical records of the established maximum operating pressure (MOP) of all its jurisdictional pipeline system in or affiliated with the Perth Amboy within the timeframe prescribed in Item 13 of this Compliance Order. If, KM is unable to produce those records, KM must complete a pressure test pursuant to 49 CFR, Part 195, Subpart E to establish the MOP of its pipeline facility, or reduce the presumed maximum operating pressure to 80 percent of the operating pressure to which each pipeline segment was subjected for 4 or more continuous hours that can be demonstrated by the methods prescribed in §195.406(a)(5) within 150 days of receipt of the Final Order.

8. Regarding Item Number 8 of the Notice pertaining to §195.505(a), KM must adequately identify and list in its written Operator Qualification Program tank painting as a covered task. KM must also include a safety process, where applicable, in its Operation and Maintenance (O&M) manual for painting on jurisdictional assets at the Perth Amboy facility. KM must have related changes and additions to its written Operator Qualification Program and O&M manual within 120 days of receipt of the Final Order.
9. Regarding Item Number 9 of the Notice pertaining to §195.404 (c)(3), KM must inspect and test each overfill protection system at the Perth Amboy facility in accordance with 195.428(d) and KM's procedural manual for operations and maintenance for the inspection and testing of overfill protection systems within 120 days of receipt of the Final Order.
10. Regarding Item Number 10 of the Notice pertaining to §195.404 (a)(1)(i), KM must update facility diagram to illustrate all DOT jurisdictional breakout tanks and interconnecting jurisdiction piping within 120 days of receipt of the Final Order.
11. Regarding Item Number 11 of the Notice pertaining to §195.404 (c)(3), KM must inspect and test each thermal relief valve on each breakout tank at the Perth Amboy facility in accordance with §195.428(a) and KM's procedural manual for operations and maintenance for the inspection and testing of thermal relief valves within 120 days of receipt of the Final Order.
12. Regarding Item Number 12 of the Notice pertaining to §195.404(c)(3), KM must commence monthly routine in-service inspection on each atmospheric and low-pressure steel aboveground breakout tanks in accordance with API 653 and KM's procedural manual for operations and maintenance for the inspection and testing of atmospheric and low-pressure steel aboveground breakout tanks within 60 days of receipt of Final Order.
13. KM may submit available historical record(s) regarding any of the above-mentioned items to Director within 30 days of receipt of the Final Order. Once any of those record(s) are in compliance with Pipeline Safety Regulations, Title 49 Code of Federal Regulation and deemed adequate by the Director, the item will be deemed satisfied without the need to perform any additional work. If KM fails to provide any historical records within 30 days of receipt of the Final Order or the record(s) are deemed inadequate, KM must comply with the requirements set forth in the individual items of the Compliance Order.
14. Regarding Items 1-12, KM must make any and all records, including procedures, available for review by the Director, or designate upon request.
15. All records and procedures submittals must be compiled in a final summary report demonstrating the work performed for all the above-mentioned items. The final summary report must be submitted to the Director within 30 days of the completion of the last action performed by KM that is set forth in this Compliance Order.
16. It is requested (not mandated) that KM maintains documentation of the safety improvement costs associated with fulfilling this Compliance Order and submits the total to Director. 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.