



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**

**Express Overnight Mail**

October 12, 2011

Mr. David Vattimo  
Regional Vice President  
Kinder Morgan Liquid Terminals, LLC  
8500 West 68<sup>th</sup> Street  
Argo, IL 60501

**CPF 1-2011-5009**

Dear Mr. Vattimo:

On November 15-19, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the facility of Kinder Morgan Liquid Terminal LLC (KM) in Carteret, 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. §195.404 Maps and Records.**

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

**(2) All crossings of public roads, railroads, rivers, buried utilities, and foreign pipelines.**

KM failed to maintain maps and records of the Carteret facility that included all crossings of public roads, railroads, rivers, buried utilities and foreign pipelines.

During the field review of Carteret Terminal, a PHMSA representative requested KM personnel to provide documentation of the location of each pipeline within the Carteret facility. KM did not have any maps, records or documentation depicting the crossings of any public roads, railroads, rivers, buried utilities, or foreign pipelines within the KM Carteret facility.

**2. §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 maps and records of the Carteret facility that included the maximum operating pressure (MOP) of each pipeline.

During the field review of Carteret Terminal, a PHMSA representative requested KM personnel to provide documentation of the MOP of each pipeline at the Carteret facility. KM did not have any records or documentation demonstrating the established MOP of each pipeline at its Carteret facility.

**3. §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.**

KM failed to follow its procedure, *T-O&M 406-Welding Inspection and Testing* dated 3/24/2009 Item 3 page 1, that states a “*qualified welding inspector must inspect each weld being made to ensure that the proper welding procedure was followed and the finished weld meets applicable standards and codes.*”

During the field review, a PHMSA representative observed ongoing construction work involving the pipe replacement of Tank 120 line from Dock 2 Header to

Tank 120, near the Pit 44 area. KM personnel indicated that construction commenced in August 2010 and that no qualified welding inspector was on-site or available to ensure that the finished weld met applicable standards and codes.

**4. §195.266 Construction records.**

**A complete record that shows the following must be maintained by the operator involved for the life of each pipeline facility:**

- (a) The total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.**
- (b) The amount, location, and cover of each size of pipe installed.**
- (c) The location of each crossing of another pipeline.**
- (d) The location of each buried utility crossing.**
- (e) The location of each overhead crossing.**
- (f) The location of each valve and corrosion test station.**

At the time of the inspection, KM did not produce any records or documentation concerning piping construction to Tank 100-4 and Tank 100-5 that was completed in August 2010. KM failed to maintain records as prescribed in §195.266 for this construction project.

**5. §195.412 Inspection of rights-of-way and crossings under navigable waters.**

- (b) Except for offshore pipelines, each operator shall, at intervals not exceeding 5 years, inspect each crossing under a navigable waterway to determine the condition of the crossing.**

KM failed to adequately inspect Line 1206 which runs under the Rahway River, a navigable waterway, to determine the condition of the crossing. The crossing was inspected in the year 2003 and in the year 2008; however, KM could not determine the depth of cover on the line at the time of the 2008 inspection due to an inoperable pipe locator transmitter. As of the date of the inspection, KM had not scheduled a subsequent inspection to determine the condition of the crossing, as required by § 195.412(b).

**6. §195.555 What are the qualifications for supervisors?**

**You must require and verify that supervisors maintain a thorough knowledge of that portion of the corrosion control procedures established under Sec. §195.402(c)(3) for which they are responsible for insuring compliance.**

KM failed to verify that the supervisor maintained thorough knowledge of that portion of the corrosion control procedure established under Sec. §195.402(c)(3) for which they are responsible.

An interview with KM’s supervisor during the inspection of its corrosion control records demonstrated that KM’s supervisor had no knowledge of its corrosion control procedures. KM’s supervisor depended on a third party contractor to perform corrosion control inspections and then filed the records without ensuring compliance with 49 CFR Part 195 Subpart H. KM had no documentation that showed that the supervisor received formal or technical training commensurate with the supervisor’s responsibilities. In addition, KM did not have another qualified supervisor interpret the corrosion control records.

**7. §195.585 What must I do to correct corroded pipe?**

**(a) General corrosion. If you find pipe so generally corroded that the remaining wall thickness is less than that required for the maximum operating pressure of the pipeline, you must replace the pipe. However, you need not replace the pipe if you--**

**(1) Reduce the maximum operating pressure commensurate with the strength of the pipe needed for serviceability based on actual remaining wall thickness...**

During a review of its records, a PHMSA representative discovered that, according to an atmospheric corrosion survey performed in 2009, some pipelines had thickness data showing greater than 50% wall loss. KM had twenty-one (21) indications on its aboveground pipelines that measured above 50% wall loss. KM was unable to produce a remedial report indicating that it replaced these pipes associated with the twenty one (21) indications or reduced MOP commensurate with the strength of the pipe. Furthermore, KM could not calculate the remaining strength of the pipe segment based on actual remaining wall thickness because KM did not have any documentation or knowledge of the actual MOP of the pipelines.

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 **\$89,800** as follows:

<u>Item number</u>	<u>PENALTY</u>
<b>3</b>	<b>\$30,500</b>
<b>4</b>	<b>\$10,500</b>
<b>5</b>	<b>\$26,700</b>
<b>6</b>	<b>\$10,500</b>
<b>7</b>	<b>\$11,600</b>

Proposed Compliance Order

With respect to items numbers 1-7 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 1-2011-5009** 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 Terminal, 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 §195.404(a)(2), KM must update set of alignment maps to illustrate all current crossings of public roads, railroads, rivers, buried utilities and foreign pipelines within 120 days of receipt of the Final Order.
2. Regarding Item Number 2 of the Notice pertaining to §195.404 (a)(3), KM must submit adequate related historical records of the maximum operating pressure (MOP) of all its jurisdictional pipeline system in or affiliated with the Carteret facility within the timeframe prescribed in Item 8 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.
3. Regarding Item Number 3 of the Notice pertaining to §195.402(c)(3), KM must conduct a non-destructive test (NDT) on all welds associated with Tank 120 near Pit 44 in accordance with §195.234. Then, KM must commission a third-party that is qualified by the American Society of Non-Destructive Testing to examine the results, analyze the integrity of the welds and prepare a final report. KM must have a final report from this third-party analysis within 180 days of receipt of the Final Order.
4. Regarding Item Number 4 of the Notice pertaining to §195.266, KM must have completed records of piping construction to Tank 100-4 and Tank 100-5 in accordance with §195.266 within 90 days of receipt of the Final Order.
5. Regarding Item Number 5 of the Notice pertaining to §195.412(b), KM must conduct a thorough inspection of the crossing under the Rahway River. KM must have the results of the inspection within 90 days of receipt of the Final Order.
6. Regarding Item Number 6 of the Notice pertaining to §195.555, KM must have documentation demonstrating that the supervisor, who is responsible for corrosion control, has undergone training sufficient to acquire adequate knowledge pertaining to 49 CFR Part 195 Subpart H and KM's corrosion control procedures within 180 days of receipt of the Final Order.
7. Regarding Item Number 7 of the Notice pertaining to §195.585(a)(1), KM must evaluate the locations stated in Item Number 7 of this Notice and perform any remedial work required by §195.585. KM must have documentation of all the results of the evaluation and remedial work within 120 days of receipt of the Final Order.

8. KM may submit available historical record(s) regarding any of the above-mentioned items to the Director within 30 days of receipt of the Final Order. Once any of those record(s) are deemed to be adequate and in compliance with Pipeline Safety Regulations, Title 49 Code of Federal Regulation according to the Director, the item will be considered 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 those submitted record(s) are deemed inadequate, KM must comply with the requirements set forth in the individual items of the Compliance Order.
9. Regarding Items 1-7, KM must make any and all records, including procedures, available for review by the Director, or designate, upon request.
10. 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.
11. It is requested (not mandated) that KM maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. 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.