

MAR 04 2011

Mr. David C. Vattimo
Regional Vice President for Terminals
Kinder Morgan Liquids Terminals, LLC
8500 W. 68th Street
Argo, IL 60501

Re: CPF No. 1-2010-5004M

Dear Mr. Vattimo:

Enclosed please find the Order Directing Amendment issued in the above-referenced case. It makes a finding of inadequate procedures, finds that Kinder Morgan Liquids Terminals, LLC has addressed some of the inadequacies in its procedures that were cited in the Notice of Amendment, and requires that Kinder Morgan Liquids Terminals, LLC make a certain amendment to its operator qualification program. When the amendment of procedure is completed, as determined by the Director, Eastern Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron E. Coy, Director, Eastern Region, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0041 3528]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)
)
Kinder Morgan Liquids Terminals, LLC,) **CPF No. 1-2010-5004M**
)
Respondent.)

ORDER DIRECTING AMENDMENT

On August 18-21, 2008, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Kinder Morgan Liquids Terminal, LLC (Kinder Morgan or Respondent)'s Operator Qualification (OQ) records and procedures in Perth Amboy, New Jersey. Kinder Morgan, a subsidiary of Kinder Morgan Energy Partners, L.P., operates more than 180 terminals with approximately 100 million barrels of capacity for petroleum products and chemicals.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated April 7, 2010, a Notice of Amendment (NOA). The NOA alleged inadequacies in Respondent's operator qualification (OQ) program, and proposed in accordance with 49 C.F.R. § 190.237, that Respondent amend its procedures.

Kinder Morgan responded to the Notice by letters dated August 4, 2010, August 27, 2010, and September 29, 2010 (collectively, Response).² Respondent contested the allegation in Item 1, offered additional information in response to the Notice, and requested additional guidance regarding this alleged inadequacy. Respondent also contested the allegations in Items 2, 3 and 4, but nonetheless provided information concerning the corrective actions it had taken and submitted copies of its revised procedures with respect to Items 2, 3 and 4. Respondent did not request a hearing and therefore has waived its right to one.

The Director has reviewed the amended procedures submitted by Respondent. Based on the result of the review, I find that Respondent's amendments adequately address Items 2, 3, and 4 in the NOA. For the reasons below, I find that Respondent failed to address all of the inadequacies in Item 1 and that Kinder Morgan must amend its OQ program to address the specified tasks. The Notice alleged that Respondent violated 49 C.F.R. Part 195 as follows:

¹ Kinder Morgan, <http://www.kindermorgan.com> (last visited January 7, 2011).

² By letter dated August 11, 2010, PHMSA granted Respondent an extension until August 31, 2010 to respond.

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.505(h), which states:

§ 195.505 Qualification program.

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

- (a)
- (h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures safe operation of pipeline facilities....

The NOA alleged that Respondent's procedures were inadequate with respect to 49 C.F.R § 195.505(h) because the training material for some of Kinder Morgan's covered tasks did not include task-specific abnormal operating conditions (AOCs).

Kinder Morgan indicated in its Response that it found it difficult to address this alleged procedural inadequacy because OPS did not identify the specific covered tasks that lacked task-specific AOCs in the training material. Kinder Morgan requested additional guidance regarding this alleged inadequacy. However, Kinder Morgan noted that it was transitioning to a task list based on ASME B31Q (Pipeline Personnel Qualification Standard) in January 2011 that will explicitly state the task-specific AOCs.

While there were some questions in the online test that related to AOCs, Respondent was not able to produce training materials that identified task-specific AOCs. Having reviewed the evidence, I find that on account of this inadequacy in the training materials, Kinder Morgan did not have an adequate OQ program at the time of the inspection. Accordingly, pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R § 190.237, Respondent is ordered to make the following revisions to its integrity management program procedures. Respondent must –

1. Modify its *Covered Task 102.10 – Atmospheric Corrosion – Surface Preparation Evaluation Reference Manual* to include identification of the task-specific AOCs and/or reactions to AOCs.
2. Modify its *Covered Task 105.08 – Operations of Pipeline System – Start Pipeline Evaluation Reference Manual* – to include identification of the task-specific AOCs and/or reactions to AOCs.
3. Modify its *Covered Task 102.5 – Read Rectifier Evaluation Reference Manual* – to include identification of the task-specific AOCs.
4. Submit the amended procedures from Items 1 through 3 above to the Director, Eastern Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628 within 30 days of receipt of this Order Directing Amendment.

5. Kinder Morgan must also provide a copy of the proposed revision to the OQ program procedure noted in Respondent's August 27, 2010 letter (a task list based on B31Q that explicitly states the task-specific AOCs) within 30 days following receipt of this Order Directing Amendment.

With respect to the submission of amended procedures, the Director may notify Respondent if any or all of the procedures have been amended satisfactorily. If further modification is necessary, the Director may require Respondent to modify the submission to cure the deficiencies. If the Director finds deficiencies and orders further modification, Respondent must proceed to take all action to correct its procedures to comply with the Director's order. Respondent must correct all deficiencies within the time specified by the Director and resubmit the procedures for review.

6. If a resubmitted item is disapproved in whole or in part, the Director may again require Respondent to correct the deficiencies in accordance with the forgoing procedures, or the Director may otherwise proceed to enforce the terms of the Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this Order Directing Amendment are effective upon service in accordance with 49 C.F.R § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued