

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

OVERNIGHT EXPRESS DELIVERY

January 18, 2018

Joshua Etzel
Vice President – Operations & Engineering
Kinder Morgan Liquid Terminals, LLC.
78 Lafayette Street
Carteret, NJ 07008

CPF 1-2018-5005

Dear Mr. Etzel:

From August 31 to September 3, 2015, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected Kinder Morgan Liquid Terminals, LLC (KMLT) pipeline terminal in Carteret, New Jersey.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §195.428(a) Overpressure safety devices and overfill protection systems

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

KMLT failed to inspect and test the relief devices located on surge tanks ST-3, ST-4, ST-5, ST-6, and 150-1 to determine that they were adequate from the standpoint of capacity, at the intervals required under §195.428(a).

During the inspection, the PHMSA inspector requested records for capacity calculations. KMLT provided a document titled Valve Concepts, Inc. Sizing Report and a P&ID for ST-3 and ST-4. The PHMSA inspector reviewed the records available since January 1, 2012, and noted that they did not identify the tanks, were not dated, and did not include any information related to the capacity of the relief devices. The PHMSA inspector requested additional information and KMLT stated that, “The only relevant data to breakout tank venting records is found on the Sizing Report, and Surge Tanks P&ID.”

Thus, KMLT did not provide documentation demonstrating that the capacities of the relief devices were adequate to relieve the anticipated pressure and flow rates in the piping system in the event of overpressure situation.

2. §195.573(a)(1) What must I do to monitor external corrosion control

(a) Protected pipelines. You must do the following to determine whether cathodic protection required by this subpart complies with Sec. 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

KMLT failed to conduct corrosion control monitoring tests at least once per calendar year, but not exceeding 15 months. During the inspection, the PHMSA inspector reviewed cathodic protection records from January 1, 2012, through December 31, 2014. The records show that KMLT failed to take 25 structure pipe-to-soil readings from 2013 through 2014. The PHMSA inspector asked KMLT why there were missing test reads in the records. KMLT was unable to provide a reason.

Thus, KMLT failed to conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months.

3. § 195.575(c) Which facilities must I electrically isolate and what inspections, tests, and safeguards are required

(c) You must inspect and electrically test each electrical isolation to assure the isolation is adequate.

KMLT failed to inspect and electrically test each electrical isolation to assure the isolation is adequate. During the inspection, the PHMSA inspector reviewed cathodic protection records from January 1, 2012 through December 31, 2014. The records show that KMLT failed to take 7 casing pipe-to-soil readings from 2013 through 2014. The PHMSA inspector asked KMLT why there were missing test reads in the records. KMLT was unable to provide a reason.

Thus, KMLT failed to inspect and electrically test each electrical isolation to assure the isolation is adequate.

4. §195.589(c) 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.

KMLT failed to 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.

Specifically, KMLT failed to maintain records of annual inspections of cathodic protection systems used to control corrosion on the bottom of aboveground breakout tanks 100-6, 100-7, 100-9, and 120, to ensure that operation and maintenance of the system are in accordance with API Recommended Practice 651, as per §195.573(d).

During the inspection, the PHMSA inspector requested cathodic protection tanks inspection records for 2012-2014 for the four tanks referenced above. KMLT was unable to provide records which documented cathodic protection inspections for 2013. KMLT stated that tank construction records were missing due to the devastation caused by Hurricane Sandy and that construction, inspection, repair and alteration records were lost/destroyed) and could not be provided during the inspection.

Superstorm Sandy occurred in October 2012. Inspections conducted in 2013 could not have been missing due to the storm. KMLT could not provide 2013 inspection records.

Therefore, KMLT failed to maintain records of inspections of the cathodic protection system for breakout tanks 100-6, 100-7, 100-9, and 120 in 2013.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$217,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$60,100
2	\$73,000
3	\$56,800
4	\$27,500

Proposed Compliance Order

With respect to item 1, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Kinder Morgan Liquid Terminals, LLC. 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. All material submit in response to this enforcement action may be 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 submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, New Jersey 08628. Please refer to **CPF 1-2018-5005** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *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 (KMLT) a Compliance Order incorporating the following remedial requirements to ensure the compliance of KMLT with the pipeline safety regulations:

1. In regard to Item 1 of the Notice pertaining to KMLT's failure to inspect and test relief devices to determine that they were adequate from the standpoint of capacity, at the intervals required under §195.428(a), KMLT must:
 - a. Provide an analysis (or perform if none exists) of the capacity requirements of the relief devices on surge tanks ST-3, ST-4, ST-5, ST-6, and 150-1 within 60 days of receipt of the Final Order.
 - b. Remediate / adjust / replace devices that were determined to be inadequate by the related analysis within 180 days of receipt of the Final Order.
 - c. All documentation demonstrating compliance with PCO items 1a & 1b above must be submitted to the Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628 for review within 210 days of receipt of the Final Order.
2. It is requested (not mandated) that KMLT maintains documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, 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.