

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

April 11, 2019

Mr. John Blanchard
President
Zenith Energy Terminals
3900 Excess Lane, Suite 700
Houston, TX 77027

CPF 1-2019-6005W

Dear Mr. Blanchard:

From March 19 to 21, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration, (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Zenith Energy Terminal Holdings, LLC's (Zenith Energy) records and procedures at its Toledo Terminal located in Toledo, Ohio.

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

1. **§ 195.64 National Registry of Pipeline and LNG Operators.**
 - (c) **Changes. Each operator must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://opsweb.phmsa.dot.gov>, of certain events.**
 - (2) **An operator must notify PHMSA of any following event not later than 60 days after the event occurs:**
 - (ii) **A change in the name of the operator**

Zenith Energy failed to notify PHMSA through the National Registry of Pipeline and LNG Operators (National Registry) within 60 days from the effective date of the operator name change.

During the inspection, the PHMSA inspector reviewed notices that had been submitted to PHMSA via the National Registry. A National Registry - Operator Name Change (Type A notification) had been submitted by Zenith to reflect a name change from ARC Terminals to Zenith Energy Terminals Holdings, LLC. The notification was dated August 21, 2018 and the effective date of the operator name change was December 21, 2017. The timeframe set forth in § 195.64(c)(2)(ii) for an operator's name change is 60 days. Zenith's notification was 183 days overdue.

Therefore, Zenith failed to notify PHMSA through the National Registry within 60 days from the effective date of its name change.

2. § 195.403 Emergency response training.

(a) Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

(1) Carry out the emergency procedures established under 195.402 that relate to their assignments;

(2) Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

(3) Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;

(4) Take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and

(5) Learn the potential causes, types, sizes, and consequences of fire and the appropriate use of portable fire extinguishers and other on-site fire control equipment, involving, where feasible, a simulated pipeline emergency condition.

Zenith failed to conduct its continuing training program to instruct operations personnel as prescribed in its Emergency Response Training and & Protocols, Version 2.0, Updated 12/7/2017 (Procedures and Requirements) within its O&M Procedures.

During the inspection, the PHMSA inspector reviewed Zenith's Procedures and Requirements. Section C of the Emergency Response Training stated in part, "All operating and maintenance personnel shall participate in emergency response training at intervals not exceeding 15 months, but at least once each calendar year."

Training records were reviewed for Zenith's operating and maintenance personnel and it was found that one Zenith employee had not been trained on Emergency Response during 2018. All other personnel training records that were reviewed showed completed training for Module 13 – Emergency Response.

Therefore, Zenith failed to conduct its Emergency Response Training in one instance by not training an operating and maintenance employee on emergency response training at intervals not exceeding 15 months, but at least once each calendar year for 2018.

3. **§ 195.420 Valve Maintenance.**

(b) Each operator shall, at intervals not exceeding 7 ½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

Zenith failed to inspect a mainline valve at intervals not exceeding 7½ months, but at least twice each calendar year, to determine that it was functioning properly, in 8 instances.

During the inspection, the PHMSA inspector reviewed Zenith's main line valve inspection records. The records indicated that mainline valve #V1 (Millard Junction) had not been inspected to determine that it was functioning properly at the required intervals for 8 inspection cycles from 2015 to 2018. The records indicated only a visual inspection was conducted, and Zenith personnel stated during the inspection that this was due to the valve being inside another Operator's locked valve site.

Therefore, Zenith failed in 8 instances to inspect its mainline valve #V1 at intervals not exceeding 7½ months, but at least twice each calendar year, to determine that it was functioning properly for the years 2015 through 2018.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. 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. 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 correct the item(s) identified in this letter. Failure to do so will result in Zenith Energy being subject to additional enforcement action.

Please 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).

No reply to this letter is required. If you choose to reply, please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. Please refer to **CPF 1-2019-6005W** 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 USB flash drive accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

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