

WARNING LETTER

VIA ELECTRONIC MAIL TO: rclark@patokaterminal.com; jhinton@patokaterminal.com

May 31, 2022

Richard Clark
Terminal Manager and President
Patoka Terminal Company, LLC
1402 Dickey Pond Rd
Vernon, IL 62892

CPF 3-2022-002-WL

Dear Mr. Clark:

From September 13 through 16, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Patoka Terminal Company, LLC (Patoka) procedures, records and field assets in Vernon, IL.

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 item inspected and the probable violation is:

1. **§ 195.505 Qualification program.**
Each operator shall have and follow a written qualification program. The program shall include provisions to:
 - (a)
 - (b) **Ensure through evaluation that individuals performing covered tasks are qualified;**

Patoka failed to ensure through evaluation that individuals performing covered tasks were qualified. Specifically, Patoka failed to ensure certain individuals were properly qualified between 2017 and 2020 while performing the covered tasks of 1) Inspecting, operating and maintaining valves, and 2) Inspecting and maintaining pressure limiting and regulating devices.

A review of the records for performing the specified covered tasks and the associated operator qualification (OQ) records provided for the individuals who conducted these tasks indicated the following:

1. Three Patoka employees were not properly qualified on Covered Task ID “716OP- Inspect, Maintain, and Operate Valves” due to the unfulfillment of the qualification requirement from 2017 to 2020. One individual performed the inspection and maintenance of a regulated mainline valve on May 19, 2019, under the qualification for Covered Task ID “007OP- Operate Valves”, which does not pertain to the inspection and maintenance of regulated valves activity. The same individual later completed an online training course relevant to the proper covered task on June 19, 2019, and performed another inspection and maintenance activity of the mainline valve on December 19, 2019. However, providing online training appropriate to the task without evaluating the qualifying employee in the field through observation and oral examination does not satisfy the qualification requirement. The qualification requirement was later fulfilled when Patoka conducted the in-field evaluation of the individual on April 20, 2020.

A similar situation occurred with the other two Patoka employees who jointly completed the inspection and maintenance of the mainline valve on April 22, 2020, while not being fully qualified nor working under the direction and observation of a qualified individual. The two employees received online training appropriate to the task on March 18 and 23, 2020 and passed the in-field observation and oral exam evaluation on September 14, 2020 and April 23, 2020, respectively. The in-field evaluation of the two employees should have been completed prior to the performance of the task.

2. An employee was not properly qualified and did not work under the direction and observation of a qualified individual during the performance of the Covered Task ID “714OP- Inspect and Maintain Pressure Limiting and Regulating Devices” in 2019 and 2020. This employee performed a total of three inspection and maintenance activities of a regulated thermal relief valve on January 23, 2019, June 07, 2019, and April 02, 2020, when the qualification requirement had not been fulfilled. The qualification requirement for the covered task is based on completing the online training course and conducting an observation and oral examination of the qualifying employee in the field. However, the OQ records for the employee do not show prior completion dates for online training appropriate to the task other than March 18, 2020. Furthermore, the in-field evaluation of the employee was conducted on September 14, 2020, as indicated by the OQ records. The qualification requirement should have been satisfied for the employee to be considered qualified on the task.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for

a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. 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.

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 Patoka Terminal Company, LLC being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **3-2022-002-WL**. 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).

Sincerely,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: Jesse Hinton, Terminal Manager Assistant, jhinton@patokaterminal.com