

**Natural Gas Pipeline Company  
of America LLC**

November 28, 2012

Mr. R. M Seeley  
Director, Southwest Region  
U.S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
8701 South Gessner, Suite 1110  
Houston, TX 77074



RE: **CPF 4-2012-1019M**

Dear Mr. Seeley:

From May through December of 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) inspected the Natural Gas Pipeline Company of America LLC's (NGPL) Operating & Maintenance (O&M) Procedures at the Lakewood, Colorado and Gulf Coast district offices. Based upon these reviews, PHMSA has identified an apparent inadequacy with these O&M Procedures as noted in the referenced Notice of Amendment, CPF 4-2012-1019M. For clarity, each PHMSA Item is restated below, followed by NGPL's response. For Items 1, 2 and 4, NGPL is not contesting the notice and has submitted information regarding how the alleged inadequacy has been addressed. With regard to Item 3, NGPL believes that this Item is already sufficiently addressed by existing procedures and therefore is contesting Item 3 and providing additional information stating the reasons for objection.

Referenced CFR Title 49, Pipeline Safety Regulation:

**Item 1. §192.605 Procedural manual for operations, maintenance, and emergencies.**

**(b)<sup>1</sup> Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.**

**(4) Gathering of data needed for reporting incidents under Part 191 of this chapter in a timely and effective manner.**

Note 1 Subsection revised from (a) in CPF 2-2012-1019M to (b).

NGPL procedures did not include a definition for incidents but only referenced 49 CFR § 191.3. NGPL should amend their procedures to define incidents that are required for making telephonic notices to the National Response Center and written reports to PHMSA.

**NGPL Response to Item 1:**

Kinder Morgan O&M Procedure 159 (Emergency Reporting and Investigation), has been revised by updating Section 3.3 (Additional Reporting Requirements), and subsection 3.3.1 (Pipeline Facilities Events), to state that “A member of the Company’s Codes and Standards or EHS department shall be responsible for reporting events classified as incidents, as defined in P0010 – Master Glossary, within the two-hour reporting limit.”

P0010 – Master Glossary has been revised to provide the following definition of an “Incident (for compliance with 49 CFR 191 and 192)” as follows:

An event that meets any of the three following criteria:

- (1) Involves the release of gas from a pipeline, or of liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:
  - (i) A death;
  - (ii) personal injury necessitating hospitalization that includes lodging and food as well as treatment;
  - (iii) Estimated property damage of \$50,000 or more, including loss to the operator or others, or both, but excluding cost of gas lost;
  - (iv) Unintentional estimated gas loss of 3,000 Mcf or more;
- (2) An emergency that results in an emergency shutdown of an LNG facility.
- (3) An event that occurs on a gas pipeline facility of LNG facility and is considered significant in the judgment of the operator. Significant events could include, but are not limited to, events that result in the closure of a major highway or a mandatory evacuation of a community. The Vice President of Operations, Vice President of EHS, or designee will determine when an event is considered significant.

Copies of both of the revised O&M Procedures are attached.

**Item 2. §192.805 Qualification Program.**

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

- (b) Ensure through evaluation that individuals performing covered tasks are qualified;**

NGPL’s Operator Qualification Plan did not have a process for managing qualifications of individuals, including contractors, who perform covered tasks during program integration following a merger or acquisition.

NGPL should amend their Operator Qualification Plan to describe the process for ensuring OQ qualifications, evaluations, and performance of covered tasks during the merger with or acquisition of other entities. This process should also include contractors.

**NGPL Response to Item 2:**

This item is addressed within Kinder Morgan's Operator Qualification Program For Facilities Subject to DOT Parts 192 and 195, Section 3.6 (Guidelines for New Hires of OQ Qualified Individuals) which provides:

“When an individual with OQ qualifications is newly hired by KM, that individual's OQ qualifications do not automatically transfer to KM. The new individual's Supervisor, in conjunction with the OQ Administrator, must review any available documentation for that individual's OQ qualifications and will decide if any of the OQ qualifications will transfer to KM. The new individual must pass an initial OQ qualification for any covered tasks where approved OQ qualifications are absent. If new employees are acquired by acquisition of a complete company, that individual's OQ qualifications and the new company's OQ Program will be reviewed for compatibility. Comparable qualifications will be transferred. Non-transferred qualifications will be evaluated as initial qualifications before the employee is allowed to independently perform covered, non-transferred, tasks.”

In Section 1 Scope of Kinder Morgan's Operator Qualification Program For Facilities Subject to DOT Parts 192 and 195, it states in part “All KM employees as well as all contractors performing these covered tasks will be OQ-qualified under this Program before they perform any covered tasks.” And in Section 10 (Definitions) an “individual” as referenced in Section 3.6, above, is defined as “a person, who on behalf of KM, performs one or more Covered Tasks on a pipeline facility operated by KM. This includes regular employees, part-time employees and contractors.”

As noted in the first bullet item of the referenced Section of O&M 199, contractors would be covered as part of the merger process:

- Those who perform OQ-covered tasks (Company and contract employees) must be documented as qualified to perform such tasks

In addition and prior to receiving DOT's October 24, 2012 NOA, Kinder Morgan O&M 199 (Operator Qualification), Section 3 (Core Information Requirements), was revised by the addition of the following bullet item describing the process for ensuring OQ qualifications, evaluations, and performance of covered tasks during the acquisition of El Paso Corporation:

- As a result of the acquisition of El Paso Corporation by Kinder Morgan, each respective company's OQ Programs will remain in effect until such time as a transition can be completed to a comprehensive Kinder Morgan Program. The Op Qual Management shall be responsible for the review and transition plan of the two operator's qualification programs into one. Based upon the results of this review, the Op Qual Management shall establish a transition period during which time any differences between the respective Operator Qualification Plans will be resolved, and the qualification and documentation process for the qualification of the employees established. At the conclusion of the transition period, all Kinder Morgan employees shall follow all provisions of the Kinder Morgan OQ Program.

Accordingly, Item 2 has been addressed.

**Item 3. §192.805 Qualification Program.**

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

**(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.**

NGPL's Operator Qualification Plan, section 3.3.1 Re-evaluation at Subsequent Intervals, states that "qualified Evaluatees who perform the specific covered task will be evaluated before or during the final year of the subsequent OQ qualification interval for that task (third year). If the subsequent OQ qualification does not take place before December 31 of the third (or final) year of the interval the Evaluatee will be deemed unqualified to perform that task." This could allow up to four years for a three year re-evaluation interval

NGPL should amend their Operator Qualification Plan to implement a grace period that would not exceed three months beyond the three year re-evaluation interval.

**NGPL Response to Item 3:**

Although the referenced NOA requests that the NGPL implement a grace period applicable to the three year OQ qualification re-evaluation interval, it is our belief that such a program modification is not necessary. The following is the current re-evaluation criteria as described in Section 3.3 (Re-evaluation), Subsection 3.3.1 (Re-evaluation at subsequent Intervals):

"OQ qualified Evaluatees who perform the specific covered task will be evaluated before or during the final year of the subsequent OQ qualification interval for that task (third year). If the subsequent OQ qualification does not take place before December 31 of the third (or final) year of the interval, the Evaluatee will be deemed unqualified to perform that task."

Based upon the above interval criteria it is possible, as noted in the NOA, to "stretch" a re-evaluation interval up to nearly a four year span by performing a re-evaluation early in year one

and then at the very end of year three. But this re-evaluation interval could only occur once for that individual. That individual's next re-evaluation would then be due before the end of the third subsequent year—no further interval tolerance or grace period would be allowed based upon the current OQ Program criteria. NGPL believes that its current program meets the current regulatory requirement for this topic, as it must be kept in mind that the re-evaluation period for each task is established by the operator and there is no specific regulatory limit for this time period or a regulatory required fixed date grace period. Four years could have been chosen as the re-evaluation period in the first instance. Therefore NGPL is contesting Item 3 of the NOA and requests that this item be rescinded.

**Item 4. §192.805 Qualification Program.**

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

**(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.**

NGPL's Operator Qualification Plan did not specify increases in the number of non-qualified individuals who may perform a covered task while being directed and observed by a qualified individual (span of control) as a significant change. Although NGPL trains their employees on all covered tasks every three years, increase in evaluation intervals is not considered in the Operator Qualification plan as a significant change.

NGPL should amend its Operator Qualification Plan to include increases in the number of non-qualified individuals who may perform a covered task while being directed and observed by a qualified individual (span of control) and increases in evaluation intervals as significant changes that would require notification to PHMSA or appropriate state agencies.

**NGPL Response to Item 4:**

The NOA recommendation that the current listing of "significant changes" in Section 6.3 of the OQ Program be revised to include "increases in the number of non-qualified individuals who may perform a covered task while being directed and observed by a qualified individual (span of control) and increases in evaluation intervals" has been included as additional bullet items with the following current criteria as provided in Section 6.3:

- "In the event of a significant change being made to the KM OQ Program, a copy of the revised program will be forwarded to PHMSA or appropriate state agency for review. Significant changes could include (but are not necessarily limited to) the following:
- a change in the number of covered tasks identified by the operator,
  - a change in the evaluation methods or criteria for performing covered tasks;

- wholesale changes made to an OQ Plan or Program, whether due to an overall effort to improve program performance, or due to a merger or acquisition that results in incorporating the best features of the competing plans and programs.”

A “draft” version of the revised Section 6.3 of the OQ Program is attached and will become final upon completion of the Kinder Morgan Action Decision Committee (ADC) revision process in December 2012.

Based upon the information provided above, NGPL believes that the alleged deficiencies noted in the October 24, 2012, Notice of Amendment Items 1, 2 and 4 either have been or are being adequately addressed. With regard to Item 3, NGPL believes that this Item is already sufficiently addressed by existing procedures and therefore is contesting Item 3 and providing additional information stating the reasons for objection. If there are any additional questions or concerns, please contact Reji George at 713-420-5433.

Sincerely,



Jorge Torres  
Vice President of Engineering

Cc (w/o att.): Dwayne Burton  
Regi George  
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Gary Buchler  
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