

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 21, 2010

Mr. Jay Prudhomme
Vice President
Merit Energy Company
1327 Noel Road, Suite 500
Dallas, TX 75240

CPF 5-2010-5029M

Dear Mr. Prudhomme:

Between May 3 and May 6, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected Merit Energy's procedures for Operations and Maintenance of the Sage Creek NGL pipeline and the Bairoil CO₂ pipeline in Casper, Wyoming.

On the basis of the inspection, PHMSA has identified apparent inadequacies within Merit's plans or procedures, as described below:

1. **§195.214 Welding procedures.**
 - (a) **Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API 1104 or Section IX of the ASME Boiler and Pressure Vessel Code (ibr, see § 195.3) . The quality of the test welds used to qualify the welding procedure shall be determined by destructive testing.**

Merit's Operations and Maintenance (O&M) Procedural Manual pertaining to the welding procedures is inadequate because Merit's procedure 6.6 for welding, NDT and repair procedures refers to the "latest approved" edition of API 1104; however, the "latest approved" edition number of API 1104 is not listed within their manual. That is not consistent with the requirement of Part 195.214(a). An operator cannot simply refer to the "latest approved" edition

of a standard that is referenced by Part 195. The welding procedure referenced the specific API 1104 edition that will be used.

2. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (8) **In the case of pipeline that is not equipped to fail safe, monitoring from an attended location pipeline pressure during startup until steady state pressure and flow conditions are reached and during shut-in to assure operation within limits prescribed by §195.406.**

Merit's O&M Procedural Manual pertaining to shut-in operation is inadequate because Merit's emergency shutdown procedure for the Sage Creek NGL pipeline did not require the pipeline pressures to be monitored. Per 195.402(c)(8), a pipeline that is not equipped with fail safe mechanism must have a written procedure to require monitoring during shut-in and to assure operations within the Maximum Operating Pressure (MOP) of the pipeline.

3. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (9) **In the case of facilities not equipped to fail safe that are identified under §195.402(c)(4) or that control receipt and delivery of the hazardous liquid or carbon dioxide, detecting abnormal operating conditions by monitoring pressure, temperature, flow or other appropriate operational data and transmitting this data to an attended location.**

Merit's O&M Procedural Manual pertaining to pipeline operations is inadequate because Merit's normal and abnormal operations procedures did not provide clear guidance for detecting abnormal operations. Merit is monitoring pressure, temperature, flow, and other operational data from the following sites and transmitting data to attended location: the Sage Creek NGL pipeline at the Highway 59 crossing identified per 195.402(c)(4), the receipt of NGL at the Sage Creek Gas Processing Plant, the delivery of NGL at the Sage Creek Meter Station, the Bairoil CO₂ pipeline at the receipt of CO₂ at Chute Creek, and the delivery of CO₂ at the Bairoil Recycle Plant. Regardless, Merit does not have procedures that allow those personnel at the Attwood facilities to detect when an abnormal operation is or has occurred. An operator must have written procedures for detecting abnormal operations by monitoring pressures, temperatures, flow rates or other appropriate operational data at facilities that are identified under §194.402(c)(4), and the control receipt and delivery of hazardous liquid or carbon dioxide are monitored from an attended location.

4. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (e) **Emergencies. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs;**

(3) Having personnel, equipment, instruments, tools, and material available as needed at the scene of an emergency.

Merit's Emergency Procedural Manual pertaining to response equipment is inadequate because Merit's procedure 4A.15 did not include a list of available emergency response equipment for either the Sage Creek NFL pipeline or Bairoil CO₂ pipeline. Emergency response procedures must include information for response personnel that directs them to available equipment, instruments, tools, and materials that may be needed in the case of an emergency.

- 5. §195.402 Procedural manual for operations, maintenance, and emergencies.**
(e) Emergencies. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs;
(8) In the case of failure of a pipeline transporting a highly volatile liquid, use of appropriate instruments to assess the extent and coverage of the vapor cloud and determine the hazardous areas.

Merit's Procedural Manual pertaining to emergency response is inadequate because Merit's procedures for the Sage Creek NGL pipeline did not describe all of the necessary steps to be taken in an event of a release of HVL to assess the extent and coverage of a vapor cloud, and determine the hazardous areas by using appropriate instruments. An operator of HVL pipelines must have a written emergency procedure for responding to a release and for determining the extent and coverage of the vapor cloud, and determine the hazardous areas by using appropriate instruments.

- 6. §195.404 Maps and Records.**
(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information;
(1) Location and identification of the following pipeline facilities;
(v) Facilities to which §195.402(c) (9) applies;
(vii) Safety devices to which §195.428 applies.

Merit's O&M Procedural Manual pertaining to maps and records is inadequate because Merit's maps and records procedure 2.3, paragraph 2.a. refers to Part 195.402(c) (9) and Part 195.428 as items that will be maintained on their maps. That is not consistent with the requirement of Part 195.404(a) (1). An operator's procedures for maintaining current maps and records cannot simply refer to Part 195 for guidance. A procedure must be described in detail on how each type of pipeline facilities to be included.

- 7. §195.404 Maps and Records.**
(c) Each operator shall maintain the following records for the periods specified;
(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

Merit's O&M Procedural Manual pertaining to maps and records is inadequate because Merit's procedure 2.16 for complying with §195.402(c) (13) did not include all the documentation requirements. An operator's O&M procedures must include a record of each inspection and test that is covered by their procedures. In addition, Merit's emergency response training review procedure 2.2.4 for complying with §195.403(b) (1) did not include all the documentation requirements.

8. §195.420 Valve maintenance.

(a) Each operator shall maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times.

Merit's O&M Procedural Manual pertaining to valve maintenance is inadequate because Merit's valve procedure 2.11.5 did not describe in detail how to maintain each valve that is necessary for the safe operation of its pipeline system so it will be in good working order at all times. Furthermore, Merit's procedure 2.11.5 did not identify what valves are necessary for the safe operation of its pipeline system. Furthermore, the operator must maintain a listing of those valves required to be in good working order to ensure the safe operation of its pipeline system and so pipeline personnel know which valves must be maintained per §195.420(a).

9. §195.557 Which pipelines must have coating for external corrosion control?

Except bottoms of aboveground breakout tanks, each buried or submerged pipeline must have an external coating for external corrosion control if the pipeline is--

(a) Constructed, relocated, replaced, or otherwise changed after the applicable date in Sec. 195.401(c), not including the movement of pipe covered by Sec. 195.424; or

Merit's O&M Procedural Manual pertaining to external corrosion control program is inadequate because Merit's procedure 2.12.1.5 only reference Part 195.401(c). An operator's external corrosion control procedures must specify the date when external coatings are required and on which pipeline facilities.

10. §195.563 Which pipelines must have cathodic protection?

(a) Each buried or submerged pipeline that is constructed, relocated, replaced, or otherwise changed after the applicable date in Sec. 195.401(c) must have cathodic protection. The cathodic protection must be in operation not later than 1 year after the pipeline is constructed, relocated, replaced, or otherwise changed, as applicable.

Merit's O&M Procedural Manual pertaining to external corrosion control program is inadequate because Merit's procedure 2.12.1.5 only referenced 195.401(c) for the applicable date of which pipelines constructed, relocated, replaced, or otherwise changed must have cathodic protection program. An operator's procedure cannot only reference Part 195. The procedure must define the actual dates of when a cathodic protection program must be implemented and on which pipelines.

- 11. §195.573 What must I do to monitor external corrosion control?**
(c) Rectifiers and other devices. You must electrically check for proper performance each device in the first column at the frequency stated in the second column.

Device	Check frequency
Rectifier.....	At least six times each calendar year, but with intervals not exceeding 2 ½ months
Reverse current switch	
Diode	
Interference bond whose failure would jeopardize structural protection	
Other interference bond.....	At least once each calendar year, but with intervals not exceeding 15 months.

Merit’s O&M Procedural Manual pertaining to external corrosion control monitoring program is inadequate because Merit’s Sage Creek external corrosion control procedure 2.12.1.7 states that each critical bond, reverse current switch and diode must be inspected once each calendar year not to exceed 15 months. An operator’s procedure for critical bond, reverse current switch, and diode must inspect these devices at least six (6) times each calendar year with intervals not exceeding 2-½ months.

- 12. §195.589 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.

Merit’s O&M Procedural Manual pertaining to corrosion control records is inadequate because Merit’s corrosion control procedure 2.12 only referenced Part §195.589 for retention requirements of their corrosion control records. An operator’s corrosion control procedures cannot only reference Part 195 for records retention requirements. A procedure must explicitly define which corrosion control records must be retained and for how long per Part 195.589.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237. 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. 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). 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.

If, after opportunity for a hearing, your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.237). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 30 days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

In correspondence concerning this matter, please refer to **CPF 5-2010-5029M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*

cc: PHP-60 Compliance Registry
PHP-500 G. Davis (#128461 and #128464)