



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

NOTICE OF AMENDMENT

OVERNIGHT EXPRESS DELIVERY

September 17, 2020

Jimmy Clunan
Vice President
Ergon Terminaling, Inc.
P.O. Box 1639
Jackson, MS 39215

CPF 1-2020-012-NOA

Dear Mr. Clunan:

From February 26, 2020 to June 19, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Ergon Terminaling, Inc.'s (Ergon) procedures for its pipeline system in Magnolia, Ohio.

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

1. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Ergon's written procedures were inadequate. Specifically, Ergon's *Operations and Maintenance Manual, Magnolia Pipeline*, dated January 2015 (O&M), failed to include a process for notifying PHMSA of changes in accordance with § 195.64(c).

During the inspection, the PHMSA inspector requested Ergon's procedures addressing § 195.64(c)¹. Ergon presented its O&M, which lacked a process for making notifications to PHMSA regarding certain events as described in the regulation. When the PHMSA inspector requested if there were additional procedures or guidance, Ergon stated there was no further guidance.

Therefore, Ergon failed to include a process in its procedures for reporting changes to PHMSA in accordance with § 195.64(c). Ergon must revise its procedures to include a process for making the required notifications.

2. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) ...

(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:

(1) ...

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

Ergon's procedures were inadequate. Specifically, Ergon's *Integrity Management Plan*, revision B, dated July 17, 2017 (IM Plan), failed to define what records must be maintained for the useful life of the pipeline in accordance with § 195.452(l)(1).

Section 195.452(l)(1) states:

(l) What records must an operator keep to demonstrate compliance?

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(i) A written integrity management program in accordance with paragraph (b) of this section.

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

During the inspection, the PHMSA inspector requested Ergon's procedures regarding record retention in accordance with the above requirement. Ergon presented its IM Plan, which lacked details addressing what records are required to be maintained for the useful life of the pipeline. When the PHMSA inspector requested if there were additional procedures or guidance related to these requirements, Ergon stated there was no further guidance.

Therefore, Ergon's procedures were inadequate regarding the requirements of § 195.452(l)(1). Ergon must revise its IM Plan to address this inadequacy.

3. **§ 195.402 Procedural manual for operations, maintenance, and emergencies.**
- (a) ...
 - (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:**
 - (1) ...
 - (3) **Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Ergon's procedures were inadequate. Specifically, Ergon's IM Plan failed to include a process for the evaluation of leak detection capabilities and modifying as necessary in accordance with § 195.452(i)(3).

Section 195.452(i)(3) states:

(i) What preventive and mitigative measures must an operator take to protect the high consequence area?

...
 (3) *Leak detection.* An operator must have a means to detect leaks on its pipeline system. An operator must evaluate the capability of its leak detection means and modify, as necessary, to protect the high consequence area. An operator's evaluation must, at least, consider, the following factors—length and size of the pipeline, type of product carried, the pipeline's proximity to the high consequence area, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results.

During the inspection, the PHMSA inspector requested Ergon's procedures regarding a process for leak detection capability evaluation. Ergon presented its IM Plan, which failed to include procedures addressing how Ergon evaluates its leak detection capabilities. The IM Plan's only mention of leak detection capability evaluation was a reference to a Leak Detection System Capability Checklist in Appendix G. When the PHMSA inspector requested to review this documentation in Appendix G, it was not available. The PHMSA inspector received Appendix G one week after the inspection; however, the Leak Detection System Capability Checklist was not included.

Therefore, Ergon's procedures were inadequate regarding preventative and mitigative measures related to leak detection and the requirements of § 195.452(i)(3). Ergon must revise its IM Plan to address this inadequacy.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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).

Following the receipt of this Notice, you have 30 days to submit written comments, revised procedures, or a request for a hearing under §190.211. 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 an Order Directing Amendment. If 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. § 190.206). 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.

It is requested (not mandated) that Ergon Terminaling, Inc. maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. Please refer to **CPF 1-2020-012-NOA** 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 USB flash drive 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: *Response Options for Pipeline Operators in Enforcement Proceedings*

¹ Section 195.64(c) states:

(a) ...

(c) *Changes*. Each operator must notify PHMSA electronically through the National Registry of Operators at <https://portal.phmsa.dot.gov>, of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs \$10 million or more. If 60 day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable;

(ii) Construction of 10 or more miles of a new or replacement hazardous liquid or carbon dioxide pipeline;

(iii) Reversal of product flow direction when the reversal is expected to last more than 30 days. This notification is not required for pipeline systems already designed for bi-directional flow; or

(iv) A pipeline converted for service under § 195.5, or a change in commodity as reported on the annual report as required by § 195.49.

(2) An operator must notify PHMSA of any following event not later than 60 days after the event occurs:

(i) A change in the primary entity responsible (i.e., with an assigned OPID) for managing or administering a safety program required by this part covering pipeline facilities operated under multiple OPIDs.

(ii) A change in the name of the operator;

(iii) A change in the entity (e.g., company, municipality) responsible for operating an existing pipeline, pipeline segment, or pipeline facility;

(iv) The acquisition or divestiture of 50 or more miles of pipeline or pipeline system subject to this part; or

(v) The acquisition or divestiture of an existing pipeline facility subject to this part.