

**NOTICE OF PROBABLE VIOLATION  
and  
PROPOSED COMPLIANCE ORDER**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

August 31, 2011

Mr. Russ Maroney  
Ergon Trucking  
Vice President – Operations  
2829 Lakeview Drive  
P. O. B. 1639  
Jackson, Mississippi 32215

**CPF 3-2011-5011**

Dear Mr. Maroney:

On May 10, 2010 through May 14, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your operations and maintenance and operator qualification programs on the Ergon Trucking Pipeline (Ergon) in Magnolia, Ohio.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

**1. §195.505 Qualification program.**

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

**§195.503 Definitions.**

**Qualified means that an individual has been evaluated and can:**

- (a) perform assigned covered tasks and**
- (b) recognize and react to abnormal operating conditions.**

Ergon did not qualify all personnel that perform covered tasks on their pipeline under the provisions of their Operator Qualification (OQ) program. Under certain conditions, unqualified refinery personnel are used to remove pigs from the pig trap on the Ergon pipeline at Newell, WV. Ergon was unable to provide any documentation to indicate that refinery personnel were qualified to perform the covered task 'E2 – Launching and Receiving Pigs', or had been directed and observed by a qualified individual to perform the covered task.

**2. §195.505 Qualification program.**

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

**§195.503 Definitions.**

**Qualified means that an individual has been evaluated and can:**

- (a) perform assigned covered tasks and**
- (b) recognize and react to abnormal operating conditions.**

Ergon did not adequately evaluate qualified individuals that monitor the pipeline. The OQ program failed to identify abnormal operating conditions (AOCs) associated with pressure monitoring, volume determination, shutdown situations and leak identification, and documentation was not available to ensure that individuals were evaluated on their ability to recognize and react to those AOCs determined by Ergon.

**3. §195.505 Qualification program.**

- (h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.**

The Ergon OQ program did not include appropriate training to ensure individuals performing covered tasks have the necessary knowledge and skills to perform tasks in a manner that ensures the safe operation of pipeline facilities. Ergon's written OQ plan states that training will be provided, as appropriate, but Ergon could not provide documentation that training was being performed for any of the 23 covered tasks of the Ergon OQ program. Specifically, Ergon did not provide training to employees that startup, shutdown, operate, and monitor the Ergon pipeline. Training is required for employees to recognize AOCs on

the pipeline prior to startup, during operation, and when shut-in based on operational data such as pressure, flow rates, and volume changes.

**4. §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.**

Ergon did not document the inspection of exposed and removed pipe for external and internal corrosion. In 2007, Ergon replaced pipe near the pump station, SR 542, Lake Mohawk, and River Hill, where employees examined the exposed or removed pipe for internal and external corrosion but did not document these inspections.

**5. §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.**

Ergon did not document atmospheric corrosion inspections. Ergon has above ground piping at the pump station, Mohawk Lake Main Line Block Valve and the termination of the pipeline in Newell, WV, but an atmospheric corrosion inspection report was not documented for the 39-month period preceding PHMSA's inspection visit.

Proposed Compliance Order

With respect to item numbered 1-3, and 5, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Ergon Trucking. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to item number 4, 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 promptly correct this item. Be advised that failure to do so may result in Ergon Trucking being subject to additional enforcement action.

Response to this Notice

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.

In your correspondence on this matter, please refer to **CPF 3-2011-5011** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*  
*Response Options for Pipeline Operators in Compliance Proceedings*

## PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Ergon Trucking a Compliance Order incorporating the following remedial requirements to ensure the compliance of Ergon Trucking with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to the performance of unqualified individuals performing covered tasks on the Ergon Trucking (Ergon) facilities; qualify refinery personnel to perform the covered task 'E2 – Launching and Receiving Pigs', or ensure that they are directed and observed by a qualified individual to perform the covered task. Documentation must be completed and maintained for the qualification of refinery personnel. Alternatively, a procedure addressing the use of qualified personnel to perform or direct and observe refinery personnel performing E2 shall be developed if Ergon does not qualify refinery personnel.

Ergon shall submit the qualification records of those refinery personnel qualified to perform E2, or a procedure to address how Ergon will manage the performance of E2 within 30 days after receipt of a Final Order.

2. In regard to Item Number 2 of the Notice pertaining to the identification of abnormal operating conditions (AOCs) during the monitoring of the Ergon pipeline; develop a list of AOCs that might be encountered during the monitoring of the pipeline and the actions that should be taken when operating personnel recognize an AOC.

The list of AOCs and operator's actions in response to AOCs shall be submitted to the Director, Central Region for approval within 30 days after receipt of the Final Order.

3. In regard to Item Number 2 of the Notice pertaining to the identification of abnormal operating conditions (AOCs) during the monitoring of the Ergon pipeline; evaluate each operator that monitors the pipeline to ensure they can recognize and react to each AOC.

Within 30 days of the Director's approval of the AOCs and operator actions; evaluate and qualify all operating personnel that monitor the Ergon pipeline and submit documentation to the Director.

4. In regard to Item Number 3 of the Notice pertaining to the appropriate training of personnel; provide training to ensure individuals that startup, shutdown, operate and monitor the pipeline understand what actions are to be taken when AOCs or abnormal operational data are observed.

Within 30 days of the receipt of the Final Order, submit a proposed training program for individuals that startup, shutdown, operate and monitor the pipeline for the Director's approval.

Within 30 days of Director's approval of the training program, complete training of personnel and submit documentation to the Director, Central Region.

5. In regard to Item Number 3 of the Notice pertaining to the training of personnel as appropriate; review the entire operator qualification program and the Ergon covered tasks, determine what additional training is required to ensure that those individuals performing covered tasks have the necessary knowledge, skills, and abilities to perform the covered tasks in a manner that ensures the safe operation of your pipeline facilities. Once determined, provide the training to all affected individuals and document the completion of the training.

Within 30 days of receipt of the Final Order, submit a proposed program for additional training for the Director's approval.

Within 60 days of the Director's approval of the training program, complete training of individuals and submit documentation of the completed training to the Director.

6. In regard to Items Number 5 of the Notice pertaining to documentation of atmospheric corrosion inspections, provide documentation that the inspection of the above ground piping at the pump station, Mohawk Lake Main Line Block Valve and the termination of the pipeline has been completed.

Documentation of the completion of the atmospheric corrosion inspections shall be submitted to the Director, Central Region within 30 days after the receipt of a Final Order.

7. It is requested that Ergon maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to David Barrett, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. Costs shall be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.