

## WARNING LETTER

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

November 20, 2015

Mr. Russ Maroney  
Vice President, Operations  
Ergon Trucking, Inc.  
2829 Lakeland Drive  
Jackson, Mississippi 39215

**CPF 3-2015-5015W**

Dear Mr. Maroney:

On December 18, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Ergon Trucking, Inc.'s (Ergon's) Public Awareness Program 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. § 195.440 Public Awareness**

**(b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

Ergon's baseline messaging to its stakeholder audiences did not include all of the necessary information specified in API RP 1162, since a detailed map or specific information on the pipeline's location was not included.

**2. § 195.440 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

Ergon has not developed a listing of its affected public audience pursuant to API RP 1162. Currently, Ergon personnel knock on doors and leave handouts along the pipeline, but do not work from current listings. Also, Ergon has not developed a list of its public official's audience.

Ergon did not conduct a complete effectiveness evaluation as specified by API RP 1162. Ergon performed an annual survey of its affected public audience, but did not perform any surveys of the emergency and public officials or excavators audiences. Ergon's procedures include a survey that was developed for emergency and public officials, but does not include a survey for excavators. In addition, since a listing of the affected public audience has not been developed, program outreach and the percentage of the stakeholder audience could not be measured. Given the incomplete effectiveness evaluation results, Ergon was unable to determine needed changes for its public awareness program.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. 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 items identified in this letter. Failure to do so will result in Ergon being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 3-2015-5015W**. 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,

Allan C. Beshore  
Director, Central Region, OPS  
Pipeline and Hazardous Materials Safety Administration

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