

**Via Federal Express and e-mail to Mary.McDaniel@dot.gov**

December 18, 2018

Mary L. McDaniel, P.E.  
Director, Southwest Region  
Pipeline and Hazardous Materials Safety Administration  
8701 South Gessner, Suite 630  
Houston, Texas 77074

**Re: CPF 4-2018-5016  
Response of Harvest Midstream**

Dear Ms. McDaniel,

Harvest Midstream (Harvest) is dedicated to maintaining a safe working environment for our employees, contractors and to protecting the public living adjacent to our pipeline assets as well as being a good steward of the environment.

This letter is Harvest's response (Response) to the Notice of Probable Violation; Proposed Civil Penalty; and Proposed Compliance Order (collectively, NOPV) dated August 31, 2018 regarding PHMSA's inspection of the Eugene Island Oil Pipeline and the Southwest Pass 24 Oil Terminal in Louisiana. PHMSA conducted the relevant inspections between November 3, 2016 and January 27, 2017. Harvest received the NOPV on September 5, 2018. By letter dated September 25, 2018, Harvest requested an extension of the time to respond to the NOPV. By letter dated October 31, 2018, PHMSA provided an extension of the time to respond, until December 21, 2018. Harvest appreciates PHMSA's willingness to provide additional time to respond to the NOPV.

Harvest respectfully requests that PHMSA consider the additional explanations and planned improvements described below. For each Item, Harvest sets out the relevant code section and PHMSA's allegation, followed by the Company's response.

**NOPV Item 1**

**Relevant Code Section: 49 C.F.R. § 194.107 General response plan requirements**

- (c) Each response plan must include:
  - (1) A core plan consisting of:
    - (xi) Drill program-an operator will satisfy the requirements for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. Program (PREP) guidelines. An operator choosing not to follow PREP

guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.

### **PHMSA Allegation**

Harvest Pipeline Company failed to follow their Facility Response Plan Section 1 Introduction and Section 4 Evaluation. Harvest Pipeline's drill program references the PREP Guidelines; however, their records demonstrate that they did not follow the Guidelines when they conducted their drills. Records provided by Harvest did not consistently document core components exercised, lessons learned, or signatures of authorized representatives.

### **PHMSA Proposed Compliance Order**

In regard to Item Number 1 of the Notice pertaining to satisfying the requirements for a drill program by following the National Preparedness for Response Exercise Program (PREP) Guidelines, Harvest Pipeline Company must, upon completion of their emergency response drills, perform an objective evaluation of personnel, procedures, drill scenarios, and other factors, where lessons learned are used in response plan revisions. This must be done in accordance with their Facility Response Plan Guidelines - Section 7.3.2: Certification to include a signature of an authorized representative.

### **Harvest Response**

Harvest is updating the materials it uses to document its evaluation of personnel, procedures, drill scenarios and how lessons learned are used to inform revisions to the Part 194 plan. Harvest will make these changes in conjunction with revisions to its procedures and documentation practices for reviewing the performance of emergency response personnel in meeting the objectives of the emergency response training program (see Item 6). Like many operators, Harvest undertakes drills and other activities that address both Part 194 facility response plan requirements and Part 195 emergency response, so it is logical consider these related compliance obligations when documenting implementation of its programs.

Harvest requests that PHMSA clarify the 30-day timeframe in the proposed compliance order will apply to any drills that are scheduled, in the normal course, on or after the effective date of the compliance order in this matter. Harvest understands that it does not need to re-schedule its spill drills to coincide with this 30-day timeframe.

## NOPV Item 2

### **Relevant Code Section: 49 C.F.R. § 194.121 Response plan review and updated procedures**

(a) Each operator shall update its response plan to address new or different operating conditions or information. In addition, each operator shall review its response plan in full at least every 5 years from the date of the last submission or the last approval as follows:

- (1) For substantial harm plans, an operator shall resubmit its response plan to OPS every 5 years from the last submission date.
- (2) For significant and substantial harm plans, an operator shall resubmit every 5 years from the last approval date.

### **PHMSA Warning**

Harvest Pipeline failed to resubmit its response plan to PHMSA within 5 years from the date of the last submission or the last approval. The previous response plan was submitted and approved in 2010, and the current response plan should have been submitted/approved at the 5-year mark in 2015, but was not submitted until September 2016.

### **Harvest Response**

Harvest will take appropriate action to prevent similar issues in the future.

## NOPV Item 3

### **Relevant Code Section: 49 C.F.R. § 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:

- (5) Analyzing pipeline accidents to determine their causes.

### **PHMSA Allegation**

Harvest Pipeline failed to follow their procedure, Liquid O&M Manual, P-195.402c5: Accident and Incident Investigation for conducting investigations to determine the probable cause of an accident. The procedures state "The investigation process is the same regardless of the level of investigation to be used. What is different is the investigation method or methods that will be used to identify cause and implement safeguards and corrective actions." Harvest Pipeline failed to perform an analysis and document their findings for two reported accidents (PHMSA Form F7000.1 ID's 20160310 and 20150070.)

## **PHMSA Proposed Compliance Order**

In regard to Item Number 3 of the Notice pertaining to the failure to analyze pipeline accidents to determine their causes, Harvest Pipeline Company must amend their procedure to include analysis techniques or methods to analyze pipeline accidents to determine their causes. Section B: Conduct the Investigation, does not provide detail of how to actually conduct an accident investigation other than to refer to a diagram that identifies the organization flow of conducting an investigation, yet there is no diagram.

### **Harvest Response**

At the time of the inspection, Harvest was performing accident investigations, as evidenced by the completed F7000.1 forms cited in the NOPV. However, Harvest recognizes that it can improve the detail, methods and documentation it uses in this process. Since the inspection, Harvest has made changes to its Accident and Incident Investigation procedure. Harvest will make additional updates to this procedure in accordance with PHMSA's proposed compliance order. Harvest will provide PHMSA with its updated procedures.

### **NOPV Item 4**

#### **Relevant Code Section: 49 C.F.R. § 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:

- (13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

### **PHMSA Allegation**

Harvest Pipeline failed to follow their procedure, Liquid O&M Manual, P-195.402c13: Review of Work done by Operator. The procedure states "Each supervisor will review the work performed by the operations personnel reporting to him to ensure that the procedures in use are adequate and any deficiencies or recommendations are reported. This review should be documented on form F-195.402(c)(13) Review of Work Done by Operator." Harvest Pipeline could not provide any completed copies of the form or confirmation that the review had been completed.

## **PHMSA Proposed Compliance Order**

In regard to Item Number 4 of the Notice pertaining to review of work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found. Harvest Pipeline must begin to conduct reviews of operations personnel and document those reviews on Harvest Pipeline Form F-195.402(c)(13) titled Review of Work Done by Operator. This must be done in accordance with their Liquid O&M Manual P-195.402c13: Review of Work Done by Operator.

### **Harvest Response**

Harvest is evaluating how its procedures and forms can be adjusted to better document review of operator work in order to determine the effectiveness of the O&M manual. Harvest is exploring different means and timing of these reviews and whether there is a more efficient way to perform them, in light of the numerous other reviews of personnel and procedures required under §§ 195.402 and 195.403. Harvest will provide PHMSA with any changes to its procedures and forms that result from this evaluation.

Harvest requests clarification of the proposed compliance order for Item 4. Specifically, Harvest requests that PHMSA confirm that it is acceptable to either continue to use the form cited in the proposed compliance order, or to create a new means of reviewing and documenting the work done by operator personnel to determine the effectiveness of the O&M procedure.

### **NOPV Item 5**

#### **Relevant Code Section: 49 C.F.R. § 195.402 Procedural manual for operations, maintenance, and emergencies**

(d) Abnormal operation. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded;

(5) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

### **PHMSA Allegation**

Harvest Pipeline failed to follow their procedure, Liquid Operations & Maintenance Manual P-195.402d: Abnormal Operations to document the periodic review required by § 195.402(d)(5). The procedure states "Periodically, or as needed (after a condition has occurred), members of the Harvest Control Center Management Team and or Lead Controllers designated shall review the response of control center personnel to ensure the effectiveness of the procedures controlling an abnormal condition." Harvest Pipeline could not provide the required documentation to show that this procedure was followed. In Table 3: Necessary

Compliance Records, it shows that Review of Personnel Response to Abnormal Operations records will be kept for 3 years. Harvest did not produce any records at the time of the inspection, but stated that the Controller Supervisor conducts verbal reviews.

### **PHMSA Proposed Compliance Order**

In regard to Item Number 5 of the Notice pertaining to review of response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found. Harvest Pipeline failed to provide documentation of reviews of the response of control center personnel to ensure the effectiveness of procedures controlling abnormal conditions. Harvest must begin documenting their verbal reviews of responses of control center personnel for abnormal conditions. This must be done in accordance with their Liquid O&M Manual P-195.402d: Abnormal Operations.

### **Harvest Response**

At the time of the inspection, Harvest had only recently taken over operational control of the Louisiana assets at issue in this NOPV. Harvest transitioned to operational control from the prior operator on June 28, 2016. Harvest is currently evaluating how it can better document the responses of control center personnel to abnormal conditions. Harvest will update its procedures and documentation practices as necessary to address this item, and will provide these updated materials to PHMSA.

Harvest requests clarification of the proposed compliance order for Item 5. Specifically, Harvest requests that PHMSA confirm that it is acceptable to either continue to use its current procedures, or to create a new means of reviewing and documenting the responses of control center personnel to abnormal conditions.

### **NOPV Item 6**

#### **Relevant Code Section: 49 C.F.R. § 195.403 Emergency Response Training**

- (b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:
- (1) Review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph (a) of this section; and
  - (2) Make appropriate changes to the emergency response training program as necessary to ensure it is effective.

### **PHMSA Allegation**

Harvest Pipeline failed to document and retain records when following their procedure, Liquid Operations & Maintenance Manual P-195.403: Training. The

procedure states “At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall: 1. Review with personnel their performance in meeting the objectives of the emergency response training program and review employee activities to determine whether the procedure was effectively followed in each emergency.”

### **PHMSA Proposed Compliance Order**

In regard to Item Number 6 of the Notice pertaining to review of emergency personnel performance in meeting the objectives of the emergency response training program. Harvest Pipeline failed to provide documentation of reviews of emergency personnel performance. Harvest must conduct reviews of emergency personnel performance and document these reviews at the required interval. This must be done in accordance with their Liquid O&M Manual P-195.403: Training.

### **Harvest Response**

Please refer to Harvest’s response for Item #1 above. Harvest will capture the required annual review of emergency personnel performance in meeting the objectives of the emergency response training program as part of its spill drill documentation.

Harvest requests that PHMSA clarify that the 30-day timeframe in the proposed compliance order will apply to any drills that are scheduled, in the normal course, on or after the effective date of the compliance order in this matter. Harvest understands that it does not need to re-schedule its spill drills to coincide with this 30-day timeframe.

### **NOPV Item 7**

#### **Relevant Code Section: 49 C.F.R. § - §195.403 Emergency Response Training**

(c) Each operator shall require and verify that its supervisors maintain a thorough and knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.

### **PHMSA Allegation**

Harvest pipeline failed to document their verification of supervisors’ knowledge of emergency response procedures in accordance with their procedure, Liquid Operations & Maintenance Manual P-195.403: Training. The procedure states that “A verification of supervisor knowledge is required, which should be documented on form (F-195.403c).” Harvest Pipeline has not been consistently documenting their verification of supervisors’ knowledge. The Operator had one form dated 12/1/16 (The HQ inspection was conducted Nov 28<sup>th</sup> – Dec 2016). The form was not completely filled out and did not include what topics were reviewed. There were no additional records.

## Harvest Response

Please refer to Harvest's response for Item #1 above for more details. Harvest will document verification of supervisors' knowledge of emergency response procedures as part of its spill drill documentation.

Please contact me at (713) 289-2688 or via e-mail at [tbrown@harvestmidstream.com](mailto:tbrown@harvestmidstream.com) if you have any questions or require additional information.

Sincerely,



Troy S. Brown  
Harvest Midstream  
Sr. Regulatory Compliance Specialist

cc: Craig Murski, Integrity Manager, Harvest Midstream