



U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

NOTICE OF AMENDMENT

OVERNIGHT EXPRESS MAIL

October 25, 2013

Fred Martin
Vice President of Supply and Transportation
Kiantone Pipeline Corporation
15 Bradley Street
Warren, PA 16365

CPF 1-2013-5024M

Dear Mr. Martin:

From August 14 to August 16, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected the Kiantone Pipeline Corporation's (Kiantone) Public Awareness Program titled United Refining Company/Kiantone Pipeline Corporation Public Awareness Program (*Public Awareness Program*), in West Seneca, New York.

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

1. **§195.440 Public awareness.**
 - (a) **Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see § 195.3).**

Kiantone's written continuing public education program, *Public Awareness Program*, was inadequate because it did not contain an effective date and a way to track revisions made to the program to ensure that the program is current as well as updated, in accordance with API RP 1162.

2. **§195.440 Public awareness.**
 - (a) . . .
 - (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.**

Kiantone's written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 3 and assess the unique attributes and characteristics of its pipeline and facilities. Specifically, the *Public Awareness Program* did not describe the criteria used to determine stakeholder notification areas.

API RP 1162 Section 3 Stakeholder Audience defines the intended audiences that should be included in the public awareness program. For further explanations and examples, operators are referred to Appendix B of API RP 1162. In Appendix B of API RP 1162, under B.1.1 Affected Public, it states that "[t]he transmission pipeline operator should tailor its communication coverage area (buffer) to fit its particular pipeline, location, and potential impact consequences."

The *Public Awareness Program* states that Kiantone uses a third party contractor to create a list of emergency officials, local public officials and excavators. However, the *Public Awareness Program* did not have further information about how these lists were created. In addition, the *Public Awareness Program* did not define buffer/area/boundary/extent of notifications used for these audiences. Likewise, the *Public Awareness Program* states that the list of affected public are created by United Refining Company's Real Estate Department by reviewing county property records for landowners along the pipeline Right-of Way. There is no detail in the program that indicates that Kiantone determined that the coverage area (buffer) fits its particular pipeline, location, and potential impact consequences.

3. §195.440 Public awareness.

(a) . . .

(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.

Kiantone's written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow the general recommendations of API RP 1162 Section 4.12 and assess the unique attributes and characteristics of its pipeline and facilities. Specifically, the *Public Awareness Program* did not describe a process for communicating general information regarding its facility, and product stored or transported through its facility, to all the stakeholders.

API RP 1162 Section 4.12 Facility Purpose provides:

Where appropriate, communication with the affected public and emergency and public officials in proximity to major facilities (such as storage facilities, compressor or pump stations) should include information to promote understanding of the nature of the facility. Operators should communicate general information regarding the facility and product(s) stored or transported through the facility.

During the inspection, Kiantone indicated that it has major facilities such as storage facilities and booster locations that are in proximity to the affected public. However, the *Public Awareness Program* lacked details regarding those facilities. While Kiantone's program states that information is provided to emergency officials and public officials on these facilities, it does not include the affected public.

4. §195.440 Public awareness.

(a) . . .

(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.

The Kiantone written continuing education program, *Public Awareness Program*, was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 7.1(b) and (c), and assess the unique attributes and characteristics of its pipeline and facilities. Specifically, *Public Awareness Program* did not identify who is responsible for administering and managing the written public awareness program.

API RP 1162 Section 7.1 Program Documentation provides:

Each operator of a hazardous liquid pipeline system, natural gas transmission pipeline system, gathering pipeline system or a natural gas distribution pipeline system should establish (and periodically update) a written Public Awareness Program designed to cover all required components of the program described in this RP.

The written program should include:

a. . . .

b. A description of the roles and responsibilities of personnel administering the program.

c. Identification of key personnel and their titles (including senior management responsible for the implementation, delivery and ongoing development of the program).

While the United Refining Company Regulatory Compliance Manager stated during the inspection that he has the overall responsibility for maintaining the written program, neither his name nor title are identified in the program. The roles and responsibilities of administering and managing the written program are not defined in the program.

5. §195.440 Public awareness.

(a) . . .

(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.

Kiantone's written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow the general recommendations of API RP 1162 Section 7.1 (g) and assess the unique attributes and characteristics of its pipeline and facilities. Section 7.1(g) states that the written program should include the program evaluation process, including the methodology to be used to perform the evaluation and analysis of the results and criteria for program improvement based on the results of the evaluation.

The *Public Awareness Program* did not have a comprehensive written process on how to determine whether the actions undertaken in implementation of API RP 1162 are achieving the intended goals and objectives. The *Public Awareness Program* lacked procedures for the measures outlined in Section 8.4 of API RP 1162.

There was no information on pre-testing materials, determining program effectiveness for each individual stakeholder audience (affected public, emergency officials, local public officials, and excavators), and reviewing pre/post test results from meetings with emergency responders, excavators, and public officials. Also, the Public Awareness Program had no metrics/criteria/rational that showed whether modification to the baseline program and supplemental program enhancements are necessary.

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 **90** 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 Kiantone maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to, as well as any correspondence relating to this Notice to: Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. Please refer to **CPF 1-2013-5024M** on each document you submit, and please provide a (signed) copy in electronic format whenever possible. Smaller files may be emailed to Byron.Coy@dot.gov. Larger files should be sent on a CD accompanied by the original (signed) paper copy to the Eastern Region Office.

Sincerely,

Byron E. Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety

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

CC: NY DPS – Mr. Kevin Speicher (w/o enclosure)