

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 24, 2014

Mr. David Huffman
Vice President & General Manager
Toledo Refining Company, LLC
1819 Woodville Road
Oregon, Ohio 43616

CPF 3-2014-5001M

Dear Mr. Huffman:

On August 21-22, 2012, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Toledo Refining Company, LLC's (Toledo) procedures for Public Awareness Program (PAP) Effectiveness in Oregon, OH.

On the basis of the inspection, PHMSA has identified several inadequacies found within Toledo's plans or 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).

Toledo's procedures are inadequate because its Public Awareness Plan does not include a management letter of support signed by senior management, in accordance with API RP 1162.

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.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process to determine the statistical sample size and margin of error for the stakeholder audience, in accordance with API RP 1162.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process for documentation of its liaison relationship with the stakeholder audience and the sharing of capabilities with emergency officials, in accordance with API RP 1162.

Toledo's procedures are inadequate because its Public Awareness Plan does not include, in accordance with API RP 1162, a written process for an annual implementation review that documents: what was reviewed, what was considered for change, what was to be changed, when the changes are to be implemented, who is making the changes and when the changes are completed.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process to determine the number of individuals reached by stakeholder audience, in accordance with API RP 1162.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process to determine the percentage of individuals actually reached by type of stakeholder audience, in accordance with API RP 1162.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process to measure the percentage of stakeholders that understood and retained the messages by the type of stakeholder audience, in accordance with API RP 1162.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process for the pretesting of materials when necessary and it does not have the level of testing that is necessary for making changes to the baseline messages, in accordance with API RP 1162.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process to determine if the prevention behaviors have been understood and are or will emerge as needed by type of stakeholder audience, in accordance with API RP 1162.

Toledo's procedures are inadequate because its Public Awareness Plan does not include, in accordance with API RP 1162, a written process for effectiveness evaluation that includes documentation of: what was reviewed, what was considered for change, what was to be changed, when changes are to be made, who is making the changes and when the changes are completed.

3. § 195.440 Public awareness.

(d) The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on:

Toledo's procedures are inadequate because its Public Awareness Plan does not include all of the baseline messages required by API RP 1162 to educate the public. Additionally, the baseline messages in the existing brochures are not adequate to properly educate the individual stakeholder audiences.

4. § 195.440 Public awareness.

(g) The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

Toledo's procedures are inadequate because its Public Awareness Plan does not include a written process for the identification of additional languages including when periodic reviews should occur. The plan should also note why the operator is only using English for public officials and emergency officials.

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 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 Toledo Refining Company, LLC maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to the Director, Central Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 3-2014-5001M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Linda Daugherty
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

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