



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

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

WARNING LETTER

OVERNIGHT EXPRESS MAIL

November 26, 2013

Edward Jacobi
Executive Vice President of Logistics
Delaware Pipeline Company, LLC
One Sylvan Way
Parsippany, NJ 07054

CPF 1-2013-5029W

Dear Mr. Jacobi:

From May 22 to May 24, 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 Delaware Pipeline Company, LLC (Delaware Pipeline) Public Awareness Program titled *Public Awareness Program Delaware Pipeline Company, May 01, 2012 Edition (Public Awareness Program)*, in Delaware City, Delaware.

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.**
 - (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).**

Delaware Pipeline failed to develop a written continuing public education program that followed the guidance in API RP 1162, as seen in § 195.3.

Throughout the *Public Awareness Program* it references API RP 1162. At the end of the *Public Awareness Program* in *Section 9* it refers to “API RP – 1162 – Public Awareness Programs for Pipeline Operators (Second Edition, December 2010),” which was and is not the API RP 1162 edition incorporated by reference.

Additionally, *Section 4* of the *Public Awareness Program* lists supplemental/enhanced program elements in accordance with API RP 1162 (Second Edition). According to API RP 1162 (First Edition), this should be a part of the baseline program elements. Also, the *Public Awareness Program* identified “pipeline purpose and reliability” for the affected public and “IMP overview” for emergency officials as supplemental/enhanced

program elements in accordance with API RP 1162 (Second Edition). According to API RP 1162 (First Edition), this should be included in its public awareness program messages to stakeholders.

Delaware Pipeline did not have a written continuing public education program that followed the correct edition of API RP 1162.

2. §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).

Delaware Pipeline failed to develop a written continuing public education program that followed the guidance provided in Section 4.4.3 of API RP 1162.

Pursuant to Section 4.4.3 of API RP 1162, “operators should include information about how emergency officials can access the operator’s emergency response plans covering their jurisdiction” in the message content to emergency officials. However, Delaware Pipeline did not include a written process in the *Public Awareness Program* that addressed communicating to emergency officials about accessing its emergency response plans covering its jurisdiction. Consequently, Delaware Pipeline could not produce records or documentation that showed it provided that information to emergency officials.

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.

Delaware Pipeline did not follow the general program recommendation, including baseline and supplemental requirements in Section 4.3 of API RP 1162.

Under Section 4.3 of API RP 1162 an operator should provide information about leak recognition and response to the affected public and excavators. This information should be related to the operator’s pipeline and facilities, and product.

Delaware Pipeline did not provide information about recognizing and responding to leaks on its pipeline to the affected public and excavators. The brochure that Delaware Pipeline sent to stakeholders includes leak recognition and response information for products other than the refined petroleum products that Delaware Pipeline transports in its pipeline. Delaware Pipeline could not produce any documentation that showed it followed Section 4.3 of API RP 1162.

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.

Delaware Pipeline’s written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow Section 4.6.2 of API RP 1162 and assess the unique attributes and characteristics of the operator’s pipeline and facilities. Specifically, the *Public Awareness Program* lacked specific details about what information should be included in a map that is distributed to stakeholders.

API RP 1162 Section 4.6.2 Transmission Pipeline Mapping, states that “the level of detail provided on the map should, at a minimum, include the line size, product transported and the approximate location of the pipeline, as well as any other information deemed reasonable and necessary by the operator.” The *Public Awareness Program* did not include details about providing the aforementioned information to stakeholders. Consequently, Delaware Pipeline’s liaison meeting booklet contained a map that did not indicate its pipeline size.

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 Delaware Pipeline 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 **1-2013-5029W**. Please send all correspondence in this matter to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. 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,

Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration