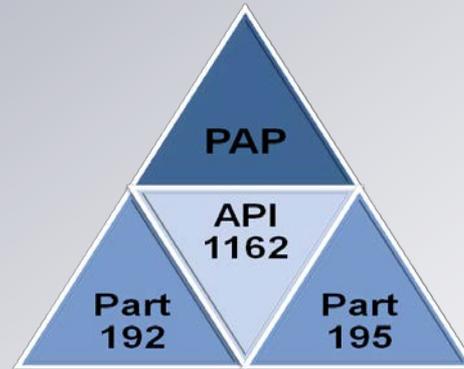




Public Awareness Program Working Group (PAPWG) February 4, 2014 Meeting

Comments to Rulemaking: Pipeline Operator Public Awareness Programs

49 CFR 192.616; 49 CFR 195.440





Comments to Rulemaking: Pipeline Operator Public Awareness Program

Overview

- Final Rule published 5/19/2005, effective 6/20/2005
- Addressed gas (Part 192) and hazardous liquid (Part 195) operators
 - Relaxed for master meter and some LP operators, eff. 1/14/2008
- Part of PHMSA's broader ongoing communications initiative to promote pipeline safety
- Addressed requirements of PSIA 2002, Section 5, "Public Education Programs"
- Incorporated by reference API RP 1162, 1st Ed.
- Addressed four stakeholder audiences:
 - **The public** in the vicinity of pipelines and ROW, including residents and places of congregation
 - State and local **emergency response and planning officials**
 - **Local public officials** and governing councils of affected municipalities and school districts
 - **Excavators**



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Overview

- NPRM seeking comments published 6/24/04
- Incorporated API RP 1162 guidance interpreted as requirements (basically “should” = “shall”, but not in all cases.)
- In response to NPRM, PHMSA received written comments from:
 - Pipeline operator companies (21);
 - Pipeline industry trade associations (8);
 - Third-party vendors to the pipeline industry (2);
 - Members of the public (7);
 - Gas Pipeline Technical Committee (GPTC); and
 - Washington Utilities and Transportation Commission



Comments to Rulemaking: Pipeline Operator Public Awareness Program

- Commenters overall:
 - Supported need for operators to implement effective public awareness/education programs, and
 - Acknowledged such programs were vital to the safety of operation of oil and gas pipelines.
- Commenters also generally supported proposal to incorporate API RP 1162 by reference, however:
 - Some opposed incorporating API RP 1162 in its entirety as a regulatory requirement, whereas
 - Others considered the proposed Rule:
 - Did not go far enough in requiring operators to provide specific other information outside the scope of the proposed Rule, or
 - Did not require broad enough outreach to the general public.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Need for the New Rule
- Incorporation of API RP 1162 In Toto as a Regulatory Requirement
- “Awareness” versus “Education”
- Inspection, Enforcement, and Compliance
 - Inspection Program; Cooperative Efforts; Implementation;
 - Evaluation Frequency; Submission Periods
- Scope of the New Rule
 - Information Breadth; Rule Overlap;
 - Emergency Response Plans; Resource Requirements



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Need for the New Rule

- Some opposed adoption of RP 1162 on premise that there is no need for a new rule on public education at all.
- Some opposed saying existing rules were adequate and should be more effectively enforced.
- Another opposed incorporating RP 1162 into regulations until it had a chance to mature as operators implement.
- One opposed the Rule, saying PSIA of 2002 was “clear and unambiguous” and further regulation would be counterproductive.
- Some felt the PSIA did not require PHMSA to develop standards prescribing elements of public education programs.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Need for the Rule – PHMSA response:

Recognized operators should have existing PAP under then current regulations; however, those regulations were limited in scope and specificity. Results of operator self-assessments and public meetings showed some operators did not have adequate PAP and needed specific guidance to comply.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Incorporation of API RP 1162 In Toto as a Regulatory Requirement
 - Some opposed the Rule on basis RP 1162 should not be incorporated in toto, and its guidance and recommendations should not become requirements.
 - Some expressed support for the Rule and support for incorporating RP 1162 by reference, but cautioned:
 - RP not intended as requirements and PHMSA should clarify specifically what is required of operators and reference RP as guidance only.
 - Ensure flexibility for operators to develop and implement effective PAP according to their needs and unique system parameters, as intended in RP.
 - Some noted PHMSA should reiterate discussion of how consensus standards, recommended practices, and publications are incorporated by reference.
(64_FR_15929, 4/2/1999, pg. 4)



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Incorporation of API RP 1162 In Toto as a Regulatory Requirement
- PHMSA response:
 - PHMSA recognized adoption of recommended practices into regulation can cause some concern as distinction between requirements and recommendations is not always clear.
 - Under the Rule, each operator must develop and implement a PAP consistent with guidance provided in RP 1162. Operator PAP must include all applicable baseline elements of RP 1162, or document rationale and justification for why elements not included in its PAP.
 - Operator must also document consideration of supplemental elements of RP and provide basis for program inclusion or exclusion of those elements.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Incorporation of API RP 1162 ... PHMSA response (cont'd):
 - Additionally, operator PAP shall specifically include provisions to educate public, government organizations, and excavators on:
 - Use of one-call notification system and other damage prevention activities;
 - Possible hazards associated with unintended releases from pipeline facility;
 - Physical indications such a release may have occurred;
 - Steps to be taken for public safety in the event of a pipeline release; and
 - How to report such an event.
 - And, operator PAP shall
 - Advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.
 - Be comprehensive to reach all areas where pipeline is operated
 - Be conducted in English and other languages



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- “Awareness” versus “Education”
 - Several suggested there was a distinction between public “awareness” in RP 1162 and public “education” in the proposed Rule, and that PHMSA should clarify that the two terms refer to the same program obligation.
 - One commenter said “awareness” implies two-way communication instead of one-way communication implied by “education”.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- “Awareness” versus “Education”
- PHMSA response:
 - PHMSA considers “public education programs”, as used in the PSIA, and “public awareness programs”, as used in API RP 1162, to address the same concept. The level of public awareness regarding pipeline operations and safety can be improved only through demonstrably effective education and communication programs.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Inspection Program
 - Several suggested PHMSA should use a centralized group rather than separate field organizations to inspect and enforce the new Rule.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Inspection Program
- PHMSA response:
 - PHMSA will develop criteria to evaluate operator PAP against the Rule, in order to facilitate consistent requirements interpretations and operator program evaluations.
 - PHMSA was considering (and did implement) a third-party contractor Clearinghouse to perform initial reviews of operator PAP for completeness and minimal adequacy, in order to identify where best to use PHMSA inspector resources to inspect particular operator programs in further detail in the field



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Cooperative Efforts
 - Several suggested PHMSA provide clear direction regarding the acceptability of operators cooperating for cost-effectiveness in outreach efforts along common rights-of-way or within geographic areas.
 - Operators having transmission and distribution facilities in same geographic area should have flexibility of either separate or common PAP for those facilities.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Cooperative Efforts
- PHMSA response:
 - RP 1162 does not specify details of how to achieve effective PAP or suggest which approach would be most effective, and PHMSA was not attempting to define methods or approaches operators must use to achieve effectiveness.
 - Operators must consider unique characteristics of their systems and evaluate effectiveness of their methods and approaches to achieve the best results.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Implementation
 - Several commented operators need one to two years after the Final Rule to develop and implement PAP to meet the Rule requirements.
 - Some said time was necessary to ensure programs are fully compliant and to develop a schedule for implementation consistent with annual budget cycles.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Implementation
- PHMSA response:
 - Operators should have some level of existing PAP under current regulations, but PHMSA recognized evaluation, development, and implementation of enhanced programs under the Rule may take longer for some.
 - Operators must submit their completed programs for review to PHMSA or appropriate State agencies within 12 months following publication of the Rule.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Evaluation Frequency
 - Several commented the frequency for operators to evaluate their PAP for effectiveness should be specified. One said in early stages operators should conduct effectiveness reviews at least every two years, if not annually.
 - Others commented it may be difficult for operators to draw a direct relationship between enhanced public outreach and improved performance in damage prevention or emergency response.
 - Some commented that it is important for operators to establish a baseline evaluation of their programs before making changes.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Evaluation Frequency
- PHMSA response:
 - PHMSA believes strongly that program evaluation is a key component to improve PAP effectiveness.
 - It is important that operators perform and document an initial baseline evaluation of their PAP and, based on the results, revise or update their PAP, determine the frequency of subsequent evaluations, and document the basis consistent with the guidance provided in API RP 1162.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Submission Periods
 - Several commented operators should only be required to submit their PAP to PHMSA one time, that subsequent periodic submissions of program information and records should not be required, and that PHMSA should rely on its inspections to evaluate continued operator compliance.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Inspection, Enforcement, and Compliance: Submission Periods
- PHMSA response:
 - PHMSA does not intend to require operators to periodically submit PAP documentation following the initial submission. However, if PHMSA believes an operator's program or its implementation is inadequate for safety, additional information may be required. Some state regulations may establish different requirements for submission of program material.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Information Breadth
 - Some commented RP 1162 is part of broader effort to enhance public communications and is intended to focus stakeholders on the presence of pipelines and recognizing and responding to emergency situations. It was not intended to address sharing of data and information on topics such as: (1) operator performance; (2) detailed mapping; (3) siting new pipelines; or (4) individual accident/ incident response activities.
 - Conversely, others suggested the Rule should include broader requirements, such as having operators make plans and documentation related to integrity management; testing, maintenance, and repairs; pipeline operating history; and education program evaluation results available to the public.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Information Breadth
- PHMSA response:
 - Rule focuses on requirements to establish and implement PAP. The primary focus is to educate the public on: one-call damage prevention; possible hazards with unintended pipeline releases; indications a release has occurred; steps to take in the event of release; and procedures to report a release. PAP must also include activities to advise municipalities, school districts, businesses, and residents of pipeline facility locations.
 - No intent to include requirements for additional communications regarding new pipeline siting or construction, emergency communications, or operator performance results.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Rule Overlap
 - Several comments regarded the scope of the Rule and RP 1162 relative to similar requirements under current regulations for damage prevention programs, emergency plans, liaison with emergency officials, and public education programs.
 - Several commented PHMSA should acknowledge an overlap between this Rule's requirements and the public communication requirements found in the Gas Integrity Management Rule, 49 CFR 192.911(m).



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Rule Overlap
- PHMSA response:
 - PHMSA recognizes overlap with existing requirements, but there is no conflict created by this Rule. Specific existing requirements may be enhanced by RP 1162 guidance. Overlapping or similar requirements should not cause undue burden on any operator. In some cases, achieving compliance with one requirement may result in simultaneous compliance with another without the need for additional actions.
 - Operators may have or may develop integrated public awareness and external communication programs addressing compliance with all requirements under a single umbrella.
 - However, the Rule does not impact or provide any relief to operators regarding compliance deadlines previously imposed by regulations.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Emergency Response Plans
 - Some commented RP 1162 provides that “emergency preparedness response plans should be developed for use internally and externally with appropriate officials.” They noted that RP 1162 indicates that “the operator should include information about how emergency officials can access the operator’s emergency response plan.” They questioned if the emergency response plan referred to in RP 1162 is the same as required by 49 CFR 192.615 and, if so, is it PHMSA’s intent for operators to provide emergency officials a copy of the their emergency response plans.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Emergency Response Plans
- PHMSA response:
 - This Rule does not amend or change requirements of § 192.615 Emergency Plans. Operators are still required to establish and maintain liaison with appropriate emergency officials.
 - There is no requirement in § 192.615 to provide emergency officials with copies of operator emergency response plans, especially not, as implied by the comments, for the purpose of non-operator persons assuming control of the pipeline system.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Resource Requirements
 - Many disagreed with conclusion that the costs to implement the Rule would be minimal. They pointed out that, although most operators have public education programs, the incremental effort to implement RP 1162 could be significant. In particular, polling public knowledge (as specified in Section 8 of RP 1162), could be a significant cost.
 - One suggested that PHMSA recognize the value of operator cooperative evaluation and survey efforts.
 - Another noted that cooperative efforts are one way to create efficiencies in reaching program goals.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Resource Requirements
- PHMSA response:
 - Much concern centered on misunderstanding that the Rule would make all provisions of RP 1162 mandatory. That is not the case.
 - Rule requires operators to develop and implement PAP, which many operators have already done.



Comments to Rulemaking: Pipeline Operator Public Awareness Program

Comments categorized:

- Scope of the New Rule: Resource Requirements
- PHMSA response (cont'd):
 - Operators must evaluate their PAP against RP 1162 to determine if changes are appropriate. Many have already performed evaluations and have begun making changes. Operators will retain flexibility in which recommendations are appropriate for their PAP. Operators must document why some elements are not. This evaluation will require more than a “minimal” effort, but that should be relatively small on a per operator basis. And, any costs to implement changes are expected to be relatively small on a per operator basis.
 - Cooperative efforts can help control costs. Where a broader effort is used, operators must document how it relates to the specific operator’s program and circumstances.



Questions



Thank you!

Herb Wilhite
Herbw@cycla.com