

## Recent Public Awareness Inspection Q&As (General)

**Accuracy (effectiveness) of method of message delivery [more than one message delivery per delivery period]** – The regulator’s (PHMSA) expectation that delivery of the message to 100 percent of the stakeholder audience is not mandated by the DOT rule or API RP 1162 and is an unreasonable and unachievable expectation. As worded in the guide, the operator would be required to deliver more than one message per delivery frequency if 100% is not achieved. This appears to mandate a system-wide supplemental program purely for the sake of reaching 100%, which is not the intent of the supplemental program.

The operator is required to deliver the baseline message to each stakeholder audience based on the delivery frequency outlined in the RP. The operator should determine the need for additional message delivery based on the operator’s results. For example, if a large percentage of mailed documents were returned as undeliverable, perhaps a second mailing would be warranted. The message delivery method, frequency and content should be determined by the operator based on the operator’s specific needs.

**Only 2 of the 3 annual audit methods are acceptable to PHMSA** – Regulatory inspections are disallowed by the terms of the enforcement guide. DOT regulations do not state that this alternative, which is listed in API RP 1162, is not acceptable.

The public awareness guidance document was a draft and has subsequently been updated. Three annual audit methods (internal self-assessments, third party audits, or regulatory inspections) are currently acceptable to PHMSA.

**Use of operator employees as a focus group to pre-test Public Awareness Program (PAP) material** – This has not been explicitly or implicitly disallowed by the applicable DOT rules or API RP 1162. The use of non-operations employees is included in API RP1162 as an allowable method of focus group testing for the appropriate stakeholder audience. Contrary to statements in the guide material, not all employees are familiar with pipeline terms or operations. Certain sectors of an operator’s company (e.g., mailroom employees, administrators not working for operations personnel, etc.) may not be involved in this part of the business.

The guidance document has been updated and the use of non-operations employees is considered an allowable method for pre-testing of messages.

**Sound and repeatable principles** – This is a term used repeatedly throughout the guide material. PHMSA defines this term in the General Guidance section of the guide but this definition is abstract and unclear. More importantly this term has not been used or implied in API RP 1162 or the PHMSA rules. Therefore, operators’ activities for the past four years would be subject to scrutiny of a term that has not been previously introduced in any related material and is not adequately explained in the guide.

Sound and repeatable principle terminology is not included in guidance.

**Adequate resources and funding to carry out PAP** – The inspector will be called upon to determine if the operator has provided adequate resources and funding to carry out the PAP. Without an exhaustive and intrusive investigation an inspector cannot begin to provide an educated guess if the operator has provided the adequate resources and funds for the PAP. Since the inspector won’t understand the operating company’s culture and complex inner-workings, such conclusions by an inspector would be speculative and inappropriate at best.

Different operators have different programs, particularly for supplemental; there is no “cookie-cutter” approach to determining if an operator has allocated appropriate resources.

There are no specific requirements or benchmarks for resource allocation. However, the level of corporate commitment to a program is sometimes reflected in the allocation of resources. An inspector may identify concerns with resources and/or funding based on discussions during the inspection process. The purpose of the questions concerning resources is to gather information about the operator’s overall approach to developing the public awareness program.

**Responsibility of all operator personnel** – Not all operator personnel are responsible for the PAP nor is it appropriate for them all to be knowledgeable of the PAP. Those operator personnel responsible for activities involving the four key stakeholders along the right-of-way should be knowledgeable of the PAP but not all them are required to be responsible for the PAP.

All operator personnel are not required to be responsible for the PAP. The operator should specify the PAP responsibilities of key company personnel with regard to implementation and support of the PAP.

**Combining two or more audiences into one process** – The DOT regulations and API RP 1162 have not excluded the possibility of combining two or more stakeholder audiences into one process and they have not stated that justification by the operator is required.

Stakeholder audiences can be combined into one process. Justification is not required; however, the operator should be able to explain the basis for this and other elements of their programs.

**Explanation of the processes used to determine the optimum combination of PAP message, delivery method and delivery frequency** - The DOT regulations and API RP 1162 have not explicitly or implicitly stated that the operators must provide justification for the selected combination of PAP message, delivery method, and delivery frequency. This results in micro-management of the operator programs with an assurance this will not be managed consistently since there will be numerous inspectors of varying backgrounds called upon to make these determinations. Not all processes have to be considered.

Operators are not required to justify their selected combination of PAP messages, delivery methods, and delivery frequencies. However, operators should be able to explain the development of their program the process and the basis for the selected delivery messages, methods and frequencies.

**Communication delivery methods** – PHMSA is suggesting that delivery methods have limitations and an operator cannot rely on one delivery method to comply with regulations. Per RP1162, an operator has the discretion to select most appropriate method. Regulations don’t require use of more than one method.

Operators can use one or various delivery methods to comply with regulations.

**Other languages for the four stakeholder audiences** – Providing messages in languages other than English is not appropriate for the local public official and emergency response official audiences since their activities require them to conduct their business primarily in English.

Operators are required to conduct their program 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. Operators should be able to provide the basis for their decisions with respect to this question.

**Statements and/or documents from affected stakeholders which indicate they did not receive information from the operator** – Depending on the statements of stakeholders to determine if an operator is in violation of the regulation is a questionable practice. Not all persons at an address may see or have knowledge of the information received.

The use of statements from stakeholders is only one tool that may be used in the inspection process. Such statements would be thoroughly reviewed for accuracy and validity before being used as the basis for any enforcement actions.

**Violation for not achieving additional objectives** – Since the additional objectives are not required by the DOT public awareness rule specifically or API RP 1162 it's unclear why an operator would be cited for violation for not achieving additional objectives.

The current guidance does not specify that additional objectives not achieved is a basis for a violation.

**Acceptable sample sizes and margins of error for measuring program effectiveness** - The guidance is impractical, vague, and provides little information for the inspector.

The early draft of the guidance was still under review and modification. Guidance will be updated.