



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

November 26, 2013

John Pustulka  
President  
National Fuel Gas Supply Corporation  
6363 Main Street  
Williamsville, NY 14221

**CPF 1-2013-1028M**

Dear Mr. Pustulka:

From July 12 to 14, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected National Fuel Gas Supply Corporation's (National Fuel) Public Awareness Program titled *Public Awareness and Education Program for Gas Distribution, Gathering and Transmission Pipelines, Version 1, July 11, 2011*(*Public Awareness and Education Program*)<sup>1</sup>, in Erie, Pennsylvania.

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

**1. §192.616 Public awareness.**

- (a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, 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 § 192.7).**

National Fuel's written continuing public education program, *Public Awareness and Education Program*, was inadequate because it failed to reference the API RP 1162 edition, as noted in § 192.7.

**2. §192.616 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.**

National Fuel's written continuing public education program, *Public Awareness and Education Program*, was inadequate because it failed to follow the general program recommendations in Sections 2.7 and 5.1.4 of API RP 1162 and assess the unique attributes and characteristics of the its pipeline and facilities.

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<sup>1</sup> National Fuel applies this program to its affiliated business units.

Specifically, the *Public Awareness and Education Program* did not have a detailed procedure for the implementation and management of bounce back cards (BBCs).

An inclusion of response cards (often referred to bounce back cards (BBCs) or business reply cards) can be used in a variety of ways, as prescribed in Section 5.1.4 of API RP 1162. Some ways that a response card could be used is for input, feedback, and/or comments. As such an operator should have an “[established] process for management of input/feedback/comments received”, as stated in Section 2.7 under Step 8 of API RP 1162.

National Fuel included BBCs with the brochures mailed to stakeholder and comment/feedback cards with emergency responder training material. However, the *Public Awareness and Education Program* lacked a detailed process for the overall implementation and management of the BBCs.

### 3. §192.616 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.**

National Fuel’s written continuing public education program, *Public Awareness and Education Program*, was inadequate because it failed to follow the general program recommendations in Section 3 of API RP 1162 and assess the unique attributes and characteristics of its pipeline and facilities. Specifically, the *Public Awareness and Education 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 “transmission pipeline operator should tailor its communication coverage area (buffer) to fit its particular pipeline, location, and potential impact consequences.”

*Table 1- Stakeholder Audiences of Section 4 in the Public Awareness and Education Program* has general information about the methods commonly used to identify the audiences but lacked specific information on how National Fuel determined that the coverage area (buffer) fits its particular pipeline, location, and potential impact consequences.

In addition, during this inspection, National Fuel indicated that the zip code address databases/geo-spatial address databases provided by the third party were used for residents located adjacent to the transmission or gathering pipeline Rights-of-Way, usually 660 feet on either side of the pipeline. However, the *Public Awareness and Education Program* did not state whether the information should be sent to the property owner or current resident of the property, or whether the resident should receive notification if the property is within 660 feet but the home is located outside the 660 feet.

### 4. §192.616 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.**

National Fuel’s written continuing public education program, *Public Awareness and Education Program*, was inadequate because it failed to follow the general program recommendations in Section 4 of API RP 1162 and assess the unique attributes and characteristics of the its pipeline and facilities. Specifically, National Fuel did not have a detailed written process for providing programs in both English and in other languages commonly used by a significant concentration of non-English speaking population along the

pipeline.

API RP 1162 Section 4 Message Content states, “an operator should select the optimum combination of messages, delivery methods, and frequency that meets the needs of the intended audience . . . communications materials should be provided in the language(s) spoken by a significant portion of the intended audience.”

*Section 5.1 of Public Awareness and Education Program* states, “Nation’s program messages are distributed in English but can be available in languages commonly understood by a significant number and concentration of the non-English speaking population in National’s area if needed. Demographic information is located in Appendix E and will be updated as needed.” Nowhere in the *Public Awareness and Education Program* did it have information on what data should be reviewed and evaluated. Consequently, there was no information about the frequency of evaluation and defining “significant number and concentration.”

**5. §192.616 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.**

National Fuel’s program, *Public Awareness and Education Program*, was inadequate because it failed to follow the general program recommendations in Section 4.12 of API RP 1162 and assess the unique attributes and characteristics of the its pipeline and facilities. Specifically, the *Public Awareness and Education Program* did not provide a detailed 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.

The *Public Awareness and Education Program* and the brochures did not include specific information about its major facilities, such as compressor stations or storage facilities. Also, the *Public Awareness and Education Program* did not include what information was required to promote understanding the nature of those facilities to the stakeholders or how this understanding should be promoted. The brochure and materials were general and lacked details that relate to National Fuel facilities and product. For instance, the brochure stated: “Pipelines carry both gaseous and liquid materials. Many liquids form gases vapor clouds when released into the air. Some pipeline gases are lighter than air and will rise. Other heavier-than-air gases and liquids will stay near the ground and collect in low spots.” However, National Fuel transports gas.

**6. §192.616 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.**

National Fuel’s written continuing education program, *Public Awareness and Education Program*, was inadequate because it failed to follow the general program recommendations in Section 7.1(b) of API RP 1162 , and assess the unique attributes and characteristics of its pipeline and facilities. Specifically, the

*Public Awareness and Education Program* did not have a description of roles and responsibilities of personnel administering the 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.

*Section 3.3* titled *Roles and Responsibilities* of the *Public Awareness and Education Program*, states that management's statement of support and administration of this program are both identified in *Appendix A*. The information in *Appendix A* is limited to names and titles/functional areas. *Appendix A* did not define roles and responsibilities for individuals. There was no description of the roles and responsibilities of personnel administering the program in the *Public Awareness and Education Program*.

**7. §192.616 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.**

National Fuel's written continuing public education program, *Public Awareness and Education Program*, was inadequate because it failed to follow the general program recommendations in Section 7.1(g) of API RP 1162 and assess the unique attributes and characteristics of its pipeline and facilities. Section 7.1(g) of API RP 1162 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 and Education Program* had no detailed written process on how to determine whether the program has been developed and implemented according to API RP 1162, as mentioned in Section 8.3 of API RP 1162. Also, the *Public Awareness and Education Program* had no detailed written process on how to determine whether the actions undertaken in implementation of API RP 1162 are achieving the intended goals and objectives, as mentioned in Section 8.4 of API RP 1162. Overall, the *Public Awareness and Education Program* lacked procedures for conducting the evaluations as outlined in Section 8 of API RP 1162. Moreover, the *Public Awareness and Education Program* had no information on what metrics/criteria/rationale are used to determine if a modification to the baseline program and/or supplemental program enhancements are necessary. And, the *Public Awareness and Education Program* did not mention who will participate in each evaluation.

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 National Fuel 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 1-2013-1028M** 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](mailto: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 Coy, PE  
Director, Eastern Region  
Pipeline and Hazardous Materials Safety Administration

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

CC: NY DPS – Mr. Kevin Speicher  
PA PUC – Mr. Paul Metro