



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

### UPS OVERNIGHT DELIVERY

November 26, 2013

Mr. Barry Cigich  
Vice President Operations and Engineering  
Inergy Midstream  
Two Brush Creek Boulevard, Suite 200  
Kansas City, MO 64112

**CPF 1-2013-1030M**

Dear Mr. Cigich:

Between August 27-31, 2012, inspectors from the New York State Department of Public Service (NYSDPS), acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the **New York State Electric & Gas (NYSEG) Public Awareness Program** at the Watkins Glen, NY facilities.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within NYSEG's plans or 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).**

NYSEG's Public Awareness Program is inadequate because it failed to reference the API RP 1162 edition as seen in §192.7 (1<sup>st</sup> edition, December 2003). Specifically, NYSEG's Public Awareness Program references API RP 1162, but it does not specify the edition of 1162.

There are two editions of API RP 1162. The 1<sup>st</sup> edition, December 2003, is the only version incorporated by reference in 192.7(c)(2). PHMSA has not adopted the 2<sup>nd</sup> edition. Therefore, it is important that the operator specify the edition of API RP 1162 being used to ensure that it complies with the edition incorporated by reference in the PHMSA regulations.

Section I of NYSEG's Public Awareness Program states API RP 1162 as the reference, but it does not state the edition.

**2. §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).**

NYSEG's Public Awareness Program is inadequate in that it failed to provide guidance on how they demonstrate management support of the program as required by API RP 1162, Section 2.7, Overall Program Administration. Specifically, NYSEG's original Public Awareness Program and their revised program did not include a signed statement or other documentation to demonstrate management support of the program.

**3. §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).**

NYSEG's Public Awareness Program is inadequate because it failed to follow the general program recommendations of API RP 1162 Section 7.1. NYSEG's Public Awareness Program does not contain the name of the individual responsible for the program administration, or information describing the resources committed to administering the program.

NYSEG's Public Awareness Program needs to include documentation for the personnel, their roles and responsibilities, and the process or procedures for the required administration of the program.

**4. §192.616 Public awareness**

**(a)**

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 2.7 Step 4 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program did not include a full description of its facilities as required by §192.161(b) API RP 1162, Section 2.7.

API RP 1162, Section 2.7 Program Development Guide states in Step 4:

**Step 4. Identify Pipeline Assets to be Included within the Program**

- The overall program may be a single Public Awareness Program for all pipeline assets, or may be divided into individual, asset-specific programs for one or more specific pipeline systems, one or more pipeline segments, one or more facilities, or one or more geographic areas. Smaller companies and LDCs may have just one overall program.
- Name an administrator for each asset specific program.
- Reference Section 7 for documentation.

Section II of NYSEG's Public Awareness Program provides generic information within API RP 1162, but it does not contain specific information describing NYSEG's facilities.

**5. §192.616 Public awareness**

(a)...

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 3 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program did not include the process, procedures or methods it used to identify stakeholders and did not identify excavator stakeholders for the distribution of targeted materials as required by §192.616(b) API RP 1162, Section 3.

API RP 1162, Section 3 Stakeholder Audiences states:

One of the initial tasks in developing a Public Awareness Program is to identify the audience(s) that should receive the program's messages. This section defines the intended audiences for the operator's Public Awareness Program and provides examples (not all inclusive) of each audience. Further explanation and examples are included in Appendix B. This information should help the operator clarify whom it is trying to reach with its program. The following audiences are considered "stakeholders" of the pipeline operator's Public Awareness Program. The four intended "Stakeholder Audiences" include:

- Affected public
- Emergency officials
- Local public officials
- Excavators.

NYSEG stated that it identified the affected public from Right-of Way (ROW) lists, the public and emergency officials based on the local municipalities. NYSEG did not identify any excavators to include on its distribution lists since it believed the information was distributed through one-call meetings.

Section III of NYSEG's Public Awareness Program defines stakeholders, and included tables from API RP 1162 into its program, and stated that they were used to identify the stakeholders. However, the written program does state the methods used to identify the stakeholders or reference the use of the tables for the identification process.

**6. §192.616 Public awareness**

(a)...

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 3 Stakeholder audiences, and assess the unique attributes and characteristics of the operator's pipeline and facilities, and referred to Appendix B of API RP 1162.

NYSEG's Public Awareness Program does not adequately identify or define the areas of consequence buffer boundaries for identifying stakeholders who should be included on their contact lists.

API RP 1162 Section 3 Stakeholder Audience defines the intended audiences that should be included in the public awareness program. For further explanation 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.”

NYSEG’s Public Awareness Program does not have the process/procedures/methods for identifying the buffer area distance around its facilities to notify stakeholders.

NYSEG’s Public Awareness Program does not detail the considerations for the identification of areas of consequence for the affected stakeholders.

## **7. §192.616 Public awareness**

**(a)...**

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG’s Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 7.1 and assess the unique attributes and characteristics of the operator’s pipeline and facilities.

NYSEG’s Public Awareness Program does not specifically include the process for identifying the methods of communication or the frequency of delivery.

API RP 1162, Section 7.1 Program Documentation states that:

“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:

- d. Identification of the media and methods of communication to be used in the program, as well as the basis for selecting the chosen method and media.
- e. Documentation of the frequency and the basis for selecting that frequency for communicating with each of the targeted audiences...”

NYSEG’s Public Awareness Program does not include the process/procedures/method for determining the type and frequency of communications to be distributed. Section five of the NYSEG Public Awareness Program has generic information regarding what type of communications should be distributed and the API RP 1162 table 2-1 is included, but not referenced, as being used in the written program process or procedures for identifying the types of communication or the frequency of delivery.

## **8. §192.616 Public awareness**

**(a)...**

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 8, and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program does not specifically include guidance detailing the process or procedures for the program evaluations.

API RP 1162, Section 8 Program Evaluation states that

“This section provides guidance to operators on how to periodically evaluate their Public Awareness Programs. The overall written program for the Public Awareness Program should include a section describing the operator's evaluation program that includes the baseline elements described in the following paragraphs. Also included are suggestions for operators to consider in periodically supplementing their evaluation efforts in a particular segment, with a selected stakeholder audience or to provide greater depth of evaluation. This section includes only a brief description of each element Appendix E provides additional explanations and examples for operator personnel who are new to developing Public Awareness Program evaluations...”

NYSEG's Public Awareness Program does not contain the process/procedures/method for implementing the program evaluations that are required.

Section five of NYSEG's Public Awareness Program cites the requirement for an annual review but the methods, process or procedures for conducting the review are not specifically stated in the program.

## **9. §192.616 Public awareness**

(a)...

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 4 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program does not include a process/procedure/method for identifying when NYSEG should be conducting their program in other languages commonly understood by a significant number of non-English speaking populations.

API RP 1162 Section 4 Message Content states that:

“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.”

NYSEG's Public Awareness Program does not detail the process/procedures/method for determining whether to distribute the Public Awareness material in a language other than English.

During the review, NYSEG representatives stated they know the stakeholders on their mailing lists and that none of them are non-English speaking. In addition, page one of the program states the program information will be conducted in English and pages 24 and 25 state as well as a language that is significant for the community. However, the program does not define a “significant portion of the

intended audience” as mentioned in API RP 1162, or the method(s) NYSEG should use to determine the language of the intended audience.

**10. §192.616 Public awareness**

**(a)...**

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG’s Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 4 and assess the unique attributes and characteristics of the operator’s pipeline and facilities.

NYSEG’s Public Awareness Program targeted materials did not contain all of the specific information referenced in API RP 1162 Section 4 to be distributed to the affected stakeholder groups.

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 . . .”

NYSEG used a standard letter with additional calendar for each mailing which did not contain all of the required content. In 2012, NYSEG contracted with a vendor to develop and distribute a new mailing brochure. The new brochure does not contain all of the required items mentioned under API RP 1162.

**11. §192.616 Public awareness**

**(a)...**

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG’s Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 3 Stakeholder audiences, and assess the unique attributes and characteristics of the operator’s pipeline and facilities, and referred to Appendix B of API RP 1162.

NYSEG’s Public Awareness Program did not include all of the places of congregation on its mailing lists to the affected public, because the operator failed to accurately define the buffer zone to distribute materials.

API RP 1162 Section 3 Stakeholder Audience defines the intended audiences that should be included in the public awareness program. For further explanation 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.”

NYSEG’s Public Awareness Program lists of mailings contained the various required stakeholders included in these groups. NYSEG indicated it will be expanding the lists when it defines the areas and distances on either side of the pipeline to ensure it notifies these affected stakeholders. The Public Awareness Program does not contain the process/procedures/method for implementing the program requirements since it has not fully defined the affected stakeholders through the expanded area on either side of its facilities.

**12. §192.616 Public awareness****(a)...****(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 7.1 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program does not specifically include guidance detailing the process or procedures for establishing baseline delivery frequencies and it does not provide guidance for distributing targeted materials to all affected excavators.

API RP 1162, Section 7.1 Program Documentation states that

“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:

d. Identification of the media and methods of communication to be used in the program, as well as the basis for selecting the chosen method and media.

e. Documentation of the frequency and the basis for selecting that frequency for communicating with each of the targeted audiences...”

The operator's Public Awareness Program does not specifically include the required information detailing the process or procedures for identifying the methods of communication or the frequency of delivery.

NYSEG's Public Awareness Program does not detail the process/procedures/method for determining the type and frequency of communications to be distributed. In addition, NYSEG could not provide documentation of mailing targeted materials to excavators in 2011.

NYSEG representatives stated that the excavators obtained information through the outreach efforts of the local one-call system.

Section five of NYSEG's Public Awareness Program has generic information regarding what type of communications that should be distributed. API RP 1162 table 2-1 is included but it is not referenced as being used in the written program process or procedures for identifying the types of communication or the frequency of delivery.

**13. §192.616 Public awareness****(a)...****(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 2.7, and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program does not detail the process or procedures for the program supplemental enhancements.

API RP 1162, Section 2.7, Overall Program Administration, Step 9. Assess Considerations for Supplemental Program Enhancements states:

- Review the criteria in this RP for enhanced programs (e.g. supplemental activities).
- Assess pipeline assets contained in the program and apply supplemental program elements.
- Solicit input from appropriate pipeline personnel (e.g. pipeline operations and maintenance personnel, other support personnel, etc.).
- Apply identified supplemental program elements to the program.
- Document supplemental program elements (describes when, what, and where program enhancements are used).

Reference Sections 2.8 and 6.

NYSEG's Public Awareness Program does not contain the process/procedures/method for implementing the program enhancements.

API RP 1162 Table 2-1 was incorporated into Appendix B of the program and includes the guidance for supplemental program enhancements but it is not referenced within the written program as the standard for enhancements.

#### **14. §192.616 Public awareness**

**(a)...**

**(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow API RP 1162 Section 4.4.3, and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program does not include the process/procedure/methods for the requirements of the interactions with emergency responders.

API RP 1162, Section 4.4.3 Emergency Preparedness Response Programs states that

“Operators are required by federal regulations to have emergency response programs. These programs should be developed for use internally and externally, with appropriate officials, and in accordance with applicable federal and state emergency regulations...” and that “The operator should include information about how emergency officials can access the operator's emergency response programs covering their jurisdiction...”

NYSEG representatives stated they did not create an emergency response plan for emergency responders. NYSEG's program did not detail or assess their expectations, the emergency responder resources or how to ensure that all emergency responders that did not attend their training session obtained the correct information.

NYSEG's Public Awareness Program contains information regarding the relationship with emergency officials in Section five of NYSEG's Public Awareness Program entitled Emergency Plan commencing on page eleven and on page twenty three. NYSEG representatives stated they contact the various emergency officials with their mailings and they stated they did not provide an emergency response plan to the emergency responders.

**15. §192.616 Public awareness****(a)...****(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program is inadequate because it failed to follow the general recommendations of API RP 1162 Section 8.3 for measuring its program implementation.

NYSEG's Public Awareness Program lacks the required guidance of the process or procedures for conducting the annual evaluations of the Public Awareness Program. NYSEG could not provide documentation of the program annual audit/review.

API RP 1162 Section 8.3 Measuring Program Implementation states

“Has the public Awareness Program been developed and written to address the objectives, elements and baseline schedule as described Section 2 and remainder of this RP?”

NYSEG's Public Awareness Program does state the requirement for an annual review in Section five of the program, part L, and includes the survey forms to implement the review.

NYSEG's Public Awareness Program does not contain the specifics for implementing any part of the evaluation review including the four year effectiveness evaluation or the requirements for documentation of these reviews.

**16. §192.616 Public awareness****(a)...****(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

NYSEG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 8.4.2, and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NYSEG's Public Awareness Program failed to include specific written process, procedures or methods for implementing any part of the four year effectiveness evaluation or the requirements for documentation of these reviews.

API RP 1162 Section 8.4.2 Measure 2– Understandability of the Content Message states that:

“Program effectiveness surveys are meant to validate the operator's methodologies and the content of the materials used. Upon initial survey, improvements should be incorporated into the program based on the results. Once validated in this initial manner, a program effectiveness survey is only required about every four years. However, when the operator introduces major design changes in its Public Awareness Program a survey to validate the new approaches may be warranted...”

NYSEG's Public Awareness Program does not contain the specifics for implementing any part of the effectiveness evaluation review every four years or the requirements for documentation of these reviews.

NYSEG's Public Awareness Program did not include any information concerning the effectiveness evaluations. This includes measuring program outreach, percentage of stakeholders reached, understandability of the message content, desired stakeholder behavior, bottom line results or making program changes.

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 NYSEG maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Byron Coy, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration.

Please submit all correspondence in this matter to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. Please refer to **CPF 1-2013-1030M** on each document you submit, and please whenever possible provide a signed PDF copy in electronic format. 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 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: Kevin Speicher, NYSDPS