



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

February 23, 2015

Mr. Jason Grey  
Interim Director of Utilities  
City of Danville, VA  
1040 Monument St.  
Danville, VA 24540

**CPF 1-2015-0004W**

Dear Mr. Grey:

From October 22 to 23, 2013, inspectors from the Virginia State Corporation Commission (VA SCC) acting as Agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected City of Danville's (City) Public Awareness Program in Danville, VA.

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 violation(s) are:

**1. §192.616 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

The City failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 8.5.

Pursuant to Section 8.5 of API RP 1162 regarding program effectiveness evaluations, "The results of the evaluation need to be considered and revisions/updates made in the public awareness program plan, implementation, materials, frequency and/or messages accordingly." The City failed to consider the results of effectiveness evaluations performed and make modifications to their Public Awareness Program accordingly.

During this inspection, the City provided records for effectiveness evaluations that were performed in 2006, 2008, 2009, and 2010. The evaluations involved American Public Gas Association phone surveys for the Affected Public stakeholder group.

The last effectiveness evaluation performed was March 3, 2010. During the inspection, VA SCC reviewed the effectiveness evaluation documentation. The effectiveness evaluation provided no conclusions, endorsements or suggestions for changes to the program based on the survey results.

## **2. §192.616 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

The City failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 8.3. Specifically, the City failed to perform annual audits on the development and implementation of its Public Awareness Program.

Section 8.3 of API RP 1162 states that “The operator should complete an annual audit or review of whether the program has been developed and implemented according to the guidelines in this RP.”

The requirement to perform annual audits, as recommended in Section 8.3 of API RP1162, was not included in the City’s Public Awareness Plan version dated July 22, 2010. The City could not provide records of annual audits during the VA SCC inspection. In addition, the City could not provide records of any changes made to the plan from 2006 through 2010 that could be associated with audits of the program, e.g. revision logs.

## **3. §192.616 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

The City failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 8.4. Specifically, the City did not measure program effectiveness for each stakeholder audience within all areas along all assets and systems covered by its program.

API RP 1162 Section 8.4 states that the operator should access the progress on several measures to access whether the actions undertaken in implementation of the RP are achieving the intended goals and objectives. One of those measures is whether the information is reaching the intended stakeholder audiences.

During this inspection, the City provided records that effectiveness evaluations were performed in 2006, 2008, 2009, and 2010. The evaluations did not include the Emergency Officials, Public Officials or Excavators stakeholder groups.

Therefore, the City did not measure program effectiveness for Emergency Officials, Public Officials, or Excavators/Contractors audiences. The City must measure program effectiveness for all of its intended stakeholder audiences.

## **4. §192.616 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

The City failed to follow the general program recommendations, including baseline and supplemental requirements of API RP1162 Section 4.4. Specifically, the City failed to provide documentation of how liaison with emergency response personnel is maintained.

During VA SCC's inspection, the City was able to provide only one record of a group meeting with emergency response officials that occurred in June 2013. Prior to the event in June 2013, the City did not have documentation demonstrating liaison activities.

API RP 1162 Section 4.4 Emergency Preparedness Communication states that communicating periodically with local emergency officials is an important aspect of Public Awareness Programs, and provides suggested information to be provided to emergency officials.

The City must document periodic meetings and other communications with emergency officials.

**5. §192.616 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

The City failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 3 by failing to maintain a documented list of all stakeholder groups.

API RP 1162 Section 3 states that one of the initial tasks in developing a Public Awareness Program is to identify the audience(s) that should receive the Public Awareness Program's messages. The RP further lists and gives examples of the (1) affected public, (2) emergency officials, (3) local public officials, and (4) excavators.

A list of identified Excavators was the only list provided during the VA SCC inspection. The City must incorporate the recommendations of API RP 1162 Section 3 fully in the City's Public Awareness Program, including keeping updated lists of all stakeholder audiences who shall receive its messages.

**6. §192.616 Public Awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

The City failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 7.2.

Specifically, the City failed to provide records demonstrating message delivery to all stakeholder groups. API RP 1162 Section 7.2 states:

The operator should maintain records of key program elements to demonstrate the level of implementation of its Public Awareness Program. Record keeping should include:

- a. Lists, records or other documentation of stakeholder audiences with whom the operator has communicated.
- b. Copies of all materials provided to each stakeholder audiences.
- c. All program evaluations, including current results, follow-up actions and expected results.

During this inspection the City was unable to provide sufficient records for all of the past 5 years of their baseline message delivery regarding utility bill stuffers for Affected Public, written materials/group meetings for Emergency Officials, distribution of written materials for Public Officials, and group meetings for Excavators/Contractors, at the frequencies identified in Section F of their effective Public Awareness Plan for that 5 year time period. The City was also unable to provide these records in subsequent VA SCC requests.

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 item(s) identified in this letter. Failure to do so will result in the City 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 **1-2015-0004W**. 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, P.E.  
Director, Eastern Region  
Pipeline and Hazardous Materials Safety Administration

Cc: Mr. James Hotinger, VA SCC