

NOTICE OF AMENDMENT

OVERNIGHT EXPRESS DELIVERY

November 24, 2020

Calvin Farr Jr.
Director – City of Richmond DPU
City of Richmond
730 East Broad Street
Richmond, VA 23219

CPF 1-2020-017-NOA

Dear Calvin Farr Jr.:

From June 4, 2019, through January 7, 2020, an inspector from the Virginia State Corporation Commission, Division of Pipeline Safety (VA SCC), acting as Agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected the City of Richmond's (the City) procedures in Richmond, Virginia.

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

1. §192.605 Procedural manual for operations, maintenance, and emergencies.

Each operator shall include the following in its operating and maintenance plan:

(a) ...

(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and Subpart M of this part.

The City's manual of written procedures for conducting operations and maintenance activities was inadequate. Specifically, the City's manual failed to include procedures for operating, maintaining, and repairing the pipeline in accordance the requirements of § 192.753, which is found in Subpart M.

During the inspection, the VA SCC inspector reviewed the City's *Procedures Manual, System Design, Effective 03/05/15* (System Design). The System Design failed to include a procedure requiring that when a bell and spigot joint subject to pressure of 25 psi gage or less is exposed for any reason, that it must be sealed by a means other than caulking.

Therefore, the City's manual of written procedures for conducting operations and maintenance activities was inadequate. The City must amend their procedures to include a procedure requiring that when a bell and spigot joint subject to pressure of 25 psi gage or less is exposed for any reason, that it must be sealed by a means other than caulking.

2. § 199.101 Anti-drug plan.

(a) Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this part and the DOT Procedures. The plan must contain-

(1) Methods and procedures for compliance with all the requirements of this part, including the employee assistance program;

The City's anti-drug plan was inadequate because it did not conform to the requirements of 49 C.F.R. Part 199 and 49 C.F.R. Part 40 (DOT Procedures).

During the inspection, the VA SCC inspector reviewed the City's Substance Abuse Policy, dated September 1, 2006 (SAP) and noted the SAP did not include:

- The name and address of the City's Medical Review Officer (MRO), as required by § 199.101(a)(3).
- Provisions to ensure that at least two of the employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, substantiate and concur in the decision to test an employee based on reasonable cause, as required by § 199.105(d).
- Provisions to ensure for the use of only drug testing laboratories certified by the Department of Health and Human Services, as required by § 199.107(a) and § 40.81(a).
- Provisions to ensure the City checks on the drug testing record of employees it is intending to use to perform safety-sensitive duties, as required by § 40.25.
- Provisions to ensure the drug testing laboratory test DOT specimens for only marijuana metabolites, cocaine metabolites, amphetamines, opiate metabolites, and phencyclidine, as required by § 40.85.

- Provisions to ensure the City's MRO provides a quality assurance review for the drug testing process for the specimens under their purview, as required by § 40.123(b).
- Provisions to ensure the City's MRO performs functions in reviewing negative test results, as required by § 40.127.

Therefore, the City's anti-drug plan was inadequate because it did not conform to the requirements of Parts 199 and 40. The City must amend their procedures to include missing information and provisions as described in the bullets above.

3. § 199.202 Alcohol misuse plan.

Each operator must maintain and follow a written alcohol misuse plan that conforms to the requirements of this part and DOT Procedures concerning alcohol testing programs. The plan shall contain methods and procedures for compliance with all the requirements of this subpart, including required testing recordkeeping, reporting, education and training elements.

The City's alcohol misuse plan was inadequate because it did not conform to the requirements of Part 199 and 49 C.F.R. Part 40 (DOT Procedures) concerning alcohol testing programs.

During the inspection, the VA SCC inspector reviewed the City's Substance Abuse Policy, dated September 1, 2006 (SAP) and noted the SAP did not include:

- Provisions to conduct reasonable suspicion testing for the presence of alcohol, as required by § 199.225(b).
- Provisions to ensure the City checks on the alcohol testing record of employees it is intending to use to perform safety-sensitive duties, as required by § 40.25.

Therefore, the City's SAP was inadequate because it did not conform to the requirements of Parts 199 and 40 concerning alcohol testing programs. The City must amend their procedures to include provisions as described in the bullets above.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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).

Following the receipt of this Notice, you have 30 days to submit written comments, revised procedures, or a request for a hearing under §190.211. 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 an Order Directing Amendment. If 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. § 190.206). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 30 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 City of Richmond maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. Please refer to **CPF 1-2020-017-NOA** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on USB flash drive accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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