



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

233 Peachtree Street Ste. 600  
Atlanta, GA 30303

## WARNING LETTER

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 12, 2012

Mr. James E. Mehring  
Vice President OH/KY Gas Operations  
Duke Energy Kentucky  
139 East Fourth Street, Room EX403  
Cincinnati, OH 45202

**CPF 2-2012-6013W**

Dear Mr. Mehring:

On April 16-20, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety, pursuant to Chapter 601 of 49 United States Code, inspected the Duke Energy *Public Awareness Program (PAP)* in Kenton County, Kentucky, as it pertains to Duke Energy Kentucky (Duke).

As a result of the inspection, it appears that Duke has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

**1. §195.440 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.**

*API RP 1162, Paragraph 6.3.1, The Affected Public*, requires a pipeline operator to consider extending the coverage area for the affected public for highly volatile liquid (HVL) pipelines in high population areas beyond the 1/8<sup>th</sup> mile minimum distance on each side of the pipeline. The Duke Energy Kentucky pipeline transports liquefied propane; an HVL. While Duke's PAP Section 9.2 mimics the API RP 1162 supplemental requirement to extend the coverage area for the affected public for HVL pipelines beyond the 1/8<sup>th</sup> mile minimum distance on each side of the pipeline, nowhere in the PAP did Duke explain how they made such a consideration or how they justified such an extension was not practical or not necessary for safety. Duke simply used a 700 ft. coverage area (see Duke PAP Section 5.1) on each side of the pipeline (essentially 1/8<sup>th</sup> of a mile), regardless

of whether or not it transports HVLs, with no explanation whatsoever to justify this coverage area.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any 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 identified in this letter. Failure to do so will result in Duke Energy Kentucky 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 2-2012-6013W**. 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,



Wayne T. Lemoie  
Director, Office of Pipeline Safety  
PHMSA Southern Region