

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 24, 2013

Mr. Connell R. Rader
President
Enmark Energy, Inc.
104 First Choice Drive, Suite A
Madison, MS 39110

CPF 2-2013-6001M

Dear Mr. Rader:

From October 16-17, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety inspected the Enmark Energy, Inc. (Enmark) written Public Awareness and Damage Prevention Program at your Madison, MS office pursuant to Chapter 601 of 49 United States Code.

On the basis of the inspection, PHMSA has identified apparent inadequacies within Enmark's written Public Awareness and Damage Prevention Program procedures, as described below:

1. §195.440 Public awareness.

(a) 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 §195.3).

Enmark's written Public Awareness and Damage Prevention Program (PADPP) did not demonstrate adequate management support as required by API RP 1162.

Section 2.5 in API RP 1162 requires that management "*demonstrate its support through [1] company policy, [2] management participation, and [3] allocation of resources and funding.*" Section 4.1 in Enmark's PADPP indicates that "*A formal written letter concerning management's support can be found in Appendix D.*"

Enmark's PADPP Appendix D contained an undated letter titled *Management Letter of Commitment*. While the letter was signed by Enmark's President, it did not contain a company policy statement concerning public awareness or give any indication that

management had committed to assuring that resources and funding would be allocated to assure the successful implementation of Enmark's PADPP.

2. §195.440 Public awareness.

(a) 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 §195.3).

Enmark's PADPP did not adequately or consistently identify the rolls and responsibilities of personnel responsible for administering and implementing the PADPP as required by API RP 1162.

Section 4.2 of the PADPP, titled "*Roles and Responsibilities*" list rolls and responsibilities for the following individuals:

- President
- Vice President
- Pipeline Manager
- Pipeline Regulatory Manager
- CO₂ Regulatory Specialist, and
- Natural Gas Regulatory Specialist

Appendix A of the PADPP, titled "*Program Administration*" lists rolls and responsibilities for the following individuals:

- President, Enmark Energy, Inc.
- Pipeline Regulatory Manager
- Natural Gas Pipeline Regulatory Specialist
- CO₂ Pipeline Regulatory Specialist
- Operations Manager, and
- Field Personnel

That is, the personnel listed in PADPP Section 4.2 and the personnel listed in Appendix A did not match. Moreover, several of the job titles made it difficult to understand who was responsible for the various functions of the PADPP.

During the inspection the Operations Manager stated that he was responsible for the roles of the Regulatory Manager, CO₂ Regulatory Specialist, Natural Gas Regulatory Specialist and Program Administrator. He also indicated the company President was responsible for the function of the Pipeline Manager. That said, job titles and their associated rolls and responsibilities must be clarified so as to be consistent and understandable by company and regulatory personnel.

3. §195.440 Public awareness.

... (g) The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

Section 5.2 of Enmark's PADPP indicates that printed brochures and public liaison meetings are delivered in English and other languages as appropriate but the program did not explain how Enmark determined what other languages were or may be appropriate.

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 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 Enmark Energy, Inc. maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Wayne T. Lemoi, Director, Southern Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 2-2013-6001M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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