

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 3, 2013

Mr. Ray L. Ingle
President
Hawthorn Oil Transportation (North Dakota), Inc.
1111 Bagby Street, Sky Lobby 2
Houston, Texas 77002

CPF 3-2013-5033M

Dear Mr. Ingle:

On June 20, 2012, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Hawthorn Oil Transportation (North Dakota), Inc. (Hawthorn) procedures for Public Awareness Program Effectiveness in Houston, TX.

On the basis of the inspection, PHMSA has identified several inadequacies found within Hawthorn's plans or 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).

Hawthorn's procedures are inadequate because its Public Awareness Plan does not include a statement of management support, exhibited by an executive management signature.

2. § 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.

Hawthorn's procedures are inadequate because its Public Awareness Plan does not include a written process for determining the statistical sample size, confidence level and margin of error during the effectiveness evaluation process.

Hawthorn's procedures are inadequate because its Public Awareness Plan does not include a written process that documents the supplemental activities occurring during the year. Also, the plan does not document the annual supplemental review for additional supplemental activities that are required based on the 12 review factors in API RP 1162 along the entire pipeline system.

Hawthorn's procedures are inadequate because its Public Awareness Plan does not include a written process on when and how to conduct an annual implementation review.

3. § 195.440 Public awareness.

(d) The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on:

Hawthorn's procedures are inadequate because its Public Awareness Plan does not include a written process that ensures baseline messages for public officials, affected public, and excavators meet the baseline message requirements of API RP 1162.

4. § 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.

Hawthorn's procedures are inadequate because its Public Awareness Plan does not include a written process for the identification of additional languages including when periodic reviews should occur. The plan should also note that the operator is using English as the designated language used by public officials and emergency officials.

5. § 195.440 Public awareness.

(h) Operators in existence on June 20, 2005, must have completed their written programs no later than June 20, 2006. Upon request, operators must submit their completed programs to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

Hawthorn's procedures are inadequate because its Public Awareness Plan does not include a written process for identification of personnel responsible for administration and management of the written program.

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.

In correspondence concerning this matter, please refer to **CPF 3-2013-5033M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Since the Public Awareness Program inspection, Hawthorn Oil Transportation (North Dakota), Inc. has submitted revised procedures to resolve the inspection issues. PHMSA Central Region personnel have reviewed the revised procedures and determined that the revisions satisfy the deficiencies identified in all of the above items. Therefore, no further action is required and this action is considered closed.

Sincerely,

Linda Daugherty
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

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