

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 13, 2014

Mr. Jim Benning
Director, Public Works
City of Duluth Public Works and Utilities
City Hall, Room 211
411 West 1st Street
Duluth, Minnesota 55802

CPF 3-2014-1003M

Dear Mr. Benning:

On August 22-23, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the City of Duluth Public Works and Utilities' (Duluth's) Public Awareness Program in Duluth, Minnesota.

On the basis of the inspection, PHMSA has identified inadequacies found within Duluth's Public Awareness Program, as described below:

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.

Duluth's procedures are inadequate because they do not include sufficient process details on what is included in the annual implementation reviews and the periodic effectiveness evaluations, in accordance with API RP 1162.

Duluth's procedures are inadequate because they do not ensure that measures, specific to Duluth's Public Awareness Program, are evaluated rather than relying on the general conclusions from the overall association's membership, in accordance with API RP 1162.

Duluth's procedures are inadequate because they do not ensure that changes or improvements made as a result of the annual implementation reviews and effectiveness evaluations are implemented and tracked, in accordance with API RP 1162.

2. §192.616 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:

Duluth's procedures are inadequate because they do not include provisions to educate the owners of vacant land parcels adjacent to the pipeline. These landowners should be included in the messaging, since they may be conducting activities, such as farming, clearing, excavating, or developing the parcel and therefore need to be educated about the pipeline.

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 Duluth maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to the Director, Central Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 3-2014-1003M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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