

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 29, 2014

Mr. Richard S. Peterson
Vice President and General Manager of Jayhawk
National Coop Refinery Association
2000 South Main
McPherson, Kansas 67460

CPF 3-2014-5010M

Dear Mr. Peterson:

On July 23-25, 2012, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected National Coop Refinery Association's (NCRA) procedures for Public Awareness Program Effectiveness in McPherson, Kansas.

On the basis of the inspection, PHMSA has identified inadequacies found within NCRA'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).

NCRA's procedures are inadequate because its Public Awareness Plan does not include Kaw Pipeline in the statement of management support as provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162. Kaw Pipeline is listed as one of the assets in the Public Awareness Program

2. § 195.440 Public awareness.

(b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to consider the need for an expanded buffer around the "systems unique attributes"; such as breakout tanks and pump stations, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to determine if the buffer for the affected public stakeholder audience is adequate to cover the potential impacts of the assets identified in the Public Awareness Plan, as required in Section 3 of API RP 1162 and discussed in Appendix B.

3. § 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.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to develop a statistical sample size based on the stakeholder audience size, confidence level, and the margin of error as a result of surveys and feedback, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process for the annual supplemental review, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not contain a written process to ensure an effective liaison relationship is established with emergency responders along the entire pipeline system, including the sharing of capabilities and NCRA's emergency response plan, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include, as required in API RP 1162, a written process to document what was reviewed during the annual implementation review addressing: what was considered for change, what will be changed, when the change is to be performed, who will make the change, and when the change occurred.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to measure the actual program outreach for each stakeholder audience, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process for measuring the percentage reached by each stakeholder audience, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process for measuring the percentage of stakeholders that understood and retained key messages by stakeholder audience, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to guide the timing for and at what level the focus group testing needs to be conducted, when NCRA revises its baseline messages, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to determine if the appropriate preventive behaviors have been understood and if those behaviors are taking place or will take place when needed by the stakeholder audience, as required in API RP 1162.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to document what was considered for change during the effectiveness evaluation review, such as what to change, when the change will be performed, who will perform the change, and when it was changed, as required in API RP 1162.

4. § 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:

NCRA's procedures are inadequate because its Public Awareness Plan does not include a written process to educate the appropriate government organizations, ensure that prompt emergency notification to the operator occurs and that messaging is consistent between brochures, markers and emergency personnel on duty during emergencies.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a list of the excavators that failed to comply with the State One-Call law in the excavator audience, to ensure persons engaged in excavation related activities are properly educated about digging dangers and steps to take should they hit a pipeline.

NCRA's procedures are inadequate because its Public Awareness Plan does not include a review of vapor dispersion and over land flow characteristics from the integrity management program to ensure that the affected public audience is reached and educated.

5. § 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.

NCRA'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 by stakeholder audience.

6. § 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.

NCRA's procedures are inadequate because its Public Awareness Plan does not include in section 2.1.2 of the plan, the title of the position of the program administrator, as required in API RP 1162.

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 thirty (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 3-2014-5010M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Since the Public Awareness Program Inspection, National Coop Refinery Association 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 enforcement 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*