

WARNING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 29, 2017

Mr. David Scobel
Chief Operating Officer
Caliber North Dakota
1200 17th Street, Suite 2100
Denver, Colorado 80202

CPF 3-2017-6013W

Dear Mr. Scobel:

On April 10-12, 2016, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Hay Butte pipeline system in Alexander, North Dakota.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a) **General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.**

Caliber North Dakota (Caliber) failed to have a manual of written procedures for operating the pump station in the Hay Butte gas plant control room or elsewhere in this plant. Caliber's pipeline facilities located at the Hay Butte gas plant are operated by two gas plant operators operating out of a gas plant control room. Although Caliber maintained a copy of its O&M procedures in the administrative office, there was no copy in the control room.

2. §195.403 Emergency Response Training.

(a) Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

- (1) Carry out the emergency procedures established under 195.402 that relate to their assignments;**
- (2) Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;**
- (3) Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;**
- (4) Take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and**
- (5) Learn the potential causes, types, sizes, and consequences of fire and the appropriate use of portable fire extinguishers and other on-site fire control equipment, involving, where feasible, a simulated pipeline emergency condition.**

Caliber failed to provide records demonstrating that Part 195 Emergency Response Plan (ERP) training requirements were met. Although the operator claimed the Part 195 ERP training was joint with the OPA drill training, the operator failed to provide records demonstrating that Part 195 ERP training requirements in 195.403 (a) were included.

3. §195.440 Public awareness

(a) ...

(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

Section 7.2 Program Recordkeeping

The operator should maintain records of key program elements to demonstrate the level of implementation of its Public Awareness Program. Record keeping should include:

- a. Lists of records or other documentation of stakeholder audiences with whom the operator communicated.**
- b. Copies of all material provided to each stakeholder audiences.**
- c. All program evaluations, including current results, follow-up actions and expected results.**

Section 3 Stakeholder Audiences

One of the initial tasks in developing a Public Awareness Program is to identify the audience(s) that should receive the program’s messages. This section defines the intended audiences for the operator’s Public Awareness Program and provides examples (not all inclusive) of each audience. Further explanation and examples are included in Appendix B. This information should help the operator clarify whom it is trying to reach with its program. The following audiences are considered “stakeholders” of the pipeline operator’s Public Awareness Program. The four intended “Stakeholder Audiences” include:

- Affected public**
- Emergency officials**
- Local public officials**
- Excavators.**

The operator should consider tailoring its communication coverage area to fit its particular pipeline location and release consequences. The operator would be expected to consider areas of consequence as defined in federal regulations. Where specific circumstances suggest a wider coverage area for a certain pipeline location, the operator should expand its communication coverage area as appropriate. The ‘Stakeholder Audience’ definitions listed in the table below are used in the remaining sections of this RP, as applicable.

Section 4 Message Content

An operator should select the optimum combination of message, delivery method, and frequency that meets the needs of the intended audience. Information materials may also include supplemental information about the pipeline operator, pipeline operations, the safety record of pipelines and other information that an operator deems appropriate for the audience. The operator is reminded that communications materials should be provided in the language(s) spoken by a significant portion of the intended audience.

The basic message conveyed to the intended audience should provide information that will allow the operator to meet the program objectives. The communications should include enough information so that in the event of a pipeline emergency, the intended audience will know how to identify a potential hazard, protect themselves, notify emergency response personnel, and notify the pipeline operator. Several components of these messages are discussed in this section.

Section 8.3 MEASURING PROGRAM IMPLEMENTATION

The operator should complete an annual audit or review of whether the program has been developed and implemented according to the guidelines in this RP. The purpose of the audit is to answer the following two questions:

- Has the Public Awareness Program been developed and written to address the objectives, elements and baseline schedule as described Section 2 and the remainder of this RP?**
- Has the Public Awareness Program been implemented and documented according to the written program?**

Appendix E includes a sample set of questions that will aid an operator in auditing the program implementation process.

The operator should use one of the following three alternative methodologies when completing an annual audit of program implementation.

- Internal self-assessments using, for example, an internal working group, or**
- Third-party audits where the evaluation is undertaken by a third-party engaged to conduct an assessment and provide recommendations for improving the program design or implementation, or**
- Regulatory inspections, undertaken by inspectors working for federal or state regulators who inspect operator pipeline programs subject to pipeline safety regulations.**

Caliber did not follow the requirements of API RP 1162. Specifically, the following sections of API RP 1162 were not followed:

- No records of audience identification as required by Section 3.
- Baseline messages were not delivered to the four stakeholder audiences (reference Sections 3 and 4).
- No annual reviews of the public awareness program were done as required by Section 8.3.

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.

Caliber provided its program only in English and did not provide records justifying or providing consideration for other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

5. §195.507 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

a) Qualification records shall include:

- (1) Identification of qualified individual(s);**
- (2) Identification of the covered tasks the individual is qualified to perform;**
- (3) Date(s) of current qualification; and**
- (4) Qualification method(s).**

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

Caliber did not retain records supporting individuals' operator qualification for a period of five years. Historical contractor records from 2014 and 2015 were not available during the inspection. A project is underway to move historical contractor OQ records to a vendor (Veriforce) starting in February 2016 with completion

estimated on April 30, 2016. Operator did not provide sample records after April 30, 2016 as requested. Missing records are as follows:

Type of Qualified Individual	Number of Individuals	Minimum Covered Tasks affected
Employee	8	3: above ground pipe coating, valve inspection, pipeline disconnection
Corrosion Contractor	1	2: cathodic protection readings, rectifier readings
PSV Valve Testing Contractor	1	1: test PSV valve

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a 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 items identified in this letter. Failure to do so will result in Caliber 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 3-2017-6013W**. 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,

Allan C. Beshore
 Director, Central Region, OPS
 Pipeline and Hazardous Materials Safety Administration