



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

12300 W. Dakota Ave., Suite 110  
Lakewood, CO 80228

## NOTICE OF AMENDMENT

### VIA E-MAIL TO MR. ED SHIKADA

July 16, 2021

Mr. Ed Shikada  
City Manager  
City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301

**CPF 5-2021-039-NOA**

Dear Mr. Shikada:

On November 16 through 17, 2020, a representative of the California Public Utilities Commission (CPUC), on behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the City of Palo Alto (CPA) Utilities natural gas distribution system Damage Prevention procedures and records.

On the basis of this inspection, PHMSA has identified the apparent inadequacy found within the CPA procedures, as described below:

#### **1. § 192.614 - Damage prevention program.**

**(a) Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purposes of this section, the term “excavation activities” includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations.**

**(b) An operator may comply with any of the requirements of paragraph (c) of this**

section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section. However, an operator must perform the duties of paragraph (c)(3) of this section through participation in a one-call system, if that one-call system is a qualified one-call system. In areas that are covered by more than one qualified one-call system, an operator need only join one of the qualified one-call systems if there is a central telephone number for excavators to call for excavation activities, or if the one-call systems in those areas communicate with one another. An operator's pipeline system must be covered by a qualified one-call system where there is one in place. For the purpose of this section, a one-call system is considered a "qualified one-call system" if it meets the requirements of section (b)(1) or (b)(2) of this section.

(1) The state has adopted a one-call damage prevention program under §198.37 of this chapter; or

(2) The one-call system:

(i) Is operated in accordance with §198.39 of this chapter;

(ii) Provides a pipeline operator an opportunity similar to a voluntary participant to have a part in management responsibilities; and

(iii) Assesses a participating pipeline operator a fee that is proportionate to the costs of the one-call system's coverage of the operator's pipeline.

(c) The damage prevention program required by paragraph (a) of this section must, at a minimum:

(1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.

(2) Provides for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in paragraph (c)(1) of this section of the following as often as needed to make them aware of the damage prevention program:

(i) The program's existence and purpose; and

(ii) How to learn the location of underground pipelines before excavation activities are begun.

(3) Provide a means of receiving and recording notification of planned excavation activities.

(4) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings...

CPA Utilities, Gas Operations' Operation, Inspection and Maintenance Manual, approved on January 23, 2020, Sections 3.4 *Damage Prevention* and 3.5 *Mark and Locate* procedures do not:

- 1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located;
- 2) Provide for the notification of the public in the vicinity of the pipeline and actual notification of the persons identified in § 192.614(c)(1);
- 3) Provide a means of receiving and recording notification of planned excavation activities; and
- 4) Provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings, if the operator has buried pipelines in the area of the excavation activity.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. 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).

Following the receipt of this Notice, you have 30 days to submit written comments, revised procedures, or a request for a hearing under §190.211. 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 an Order Directing Amendment. If 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. § 190.206). 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 City of Palo Alto maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Dustin Hubbard, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 5-2021-039-NOA** and, for each document you submit, please provide a copy in electronic format whenever possible. Please copy the CPUC Program Manager on all correspondence.

Sincerely,

Dustin Hubbard  
Director, Western Region, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration

Enclosure: Response Options for Pipeline Operators in Enforcement Proceedings

cc: PHP-60 Compliance Registry  
PHP-500 J. Dunphy (#20-173117)  
Terrence Eng, Program Manager, Gas Safety and Reliability Branch, California Public Utilities Commission