



U.S. Department
Of Transportation
Pipeline and
Hazardous Materials
Safety Administration

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

WARNING LETTER

OVERNIGHT EXPRESS MAIL

October 25, 2013

Fred Martin
Vice President of Supply and Transportation
Kiantone Pipeline Corporation
15 Bradley Street
Warren, PA 16365

CPF 1-2013-5023W

Dear Mr. Martin:

From August 14 to August 16, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected the Kiantone Pipeline Corporation's (Kiantone) Public Awareness Program titled United Refining Company/Kiantone Pipeline Corporation Public Awareness Program (*Public Awareness Program*), in West Seneca, New York.

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

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).

Kiantone failed to develop a written continuing public education program that followed the guidance in API RP 1162 Section 4.

API RP 1162 Section 4 Message Content states, "an operator should select the optimum combination of messages, delivery methods, and frequency that meets the needs of the intended audience . . . communications materials should be provided in the language(s) spoken by a significant portion of the intended audience."

The *Public Awareness Program* did not have a documented process for providing programs in language(s) spoken by a significant portion of the intended audience. There was no information on what data will be

evaluated to determine which language the program should be in, the frequency of evaluation, and defining what the operator deems as “significant number and concentration”.

2. §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).

Kiantone failed to develop a written continuing public education program that followed the guidance in API RP 1162 Section 4.3.4.

API RP 1162 Section 4.3.4 states that “[i]nformation should describe the ongoing relationship between the operator and local emergency response officials to help prevent incidents and assure preparedness for emergencies.”

The *Public Awareness Program* and the materials sent to the affected public and excavators did not address the relationship Kiantone has with the local emergency response officials to prevent incidents and assure preparedness for emergencies, as mentioned in Section 4.3.4 of API RP 1162.

3. §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).

Kiantone failed to implement its written continuing education program, *Public Awareness Program, Section 6 Awareness Message*. Specifically, Kiantone failed to implement *Table 6.1 Message Frequencies & Format* under *Section 6* of the *Public Awareness Program*, which provides the frequency of the baseline messages to all stakeholders.

According to *Table 6.1 Message Frequencies & Format*, Kiantone must annually send baseline messages to all stakeholders. However, Kiantone did not provide all the baseline messages to all stakeholders on an annual basis. Kiantone’s baseline messages consisted of an annual meeting invitation package to local public officials and excavators, a pamphlet listing dates for the state meetings (New York and Pennsylvania) and a pipeline safety trifold brochure containing general pipeline safety information. The aforementioned did not address how to get additional information from Kiantone and, recognize and respond to a leak and potential hazards associated with Kiantone’s pipeline/product(s). Only those that attended a meeting received specific information related to Kiantone’s facilities/products. Kiantone does not provide the information in any way to the stakeholders who do not attend, and not all of the stakeholders attend a meeting. Thus, all stakeholders did not receive the baseline messages annually in accordance with the *Public Awareness Program*.

4. §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.

Kiantone failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 4.3.1.

API RP 1162 Section 4.3.1 states that an operator must include “[i]nformation about specific release characteristics and potential hazards posed by hazardous liquids or gases” in the message content to the affected public and excavator stakeholders. The printed materials in *Appendices C and D* of the *Public Awareness Program* that were mailed to the affected public and excavators did not include information about the product(s) it carried in the pipeline nor the potential hazards posed by these product(s). In addition, the annual meeting invitation sent to those excavators did not contain that information.

5. **§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.

Kiantone failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 of Section 4.3.2.

API RP 1162 Section 4.3.2 states that the information included in the message content must “address how to recognize a pipeline leak through the senses of sight, unusual sound, and smell and describe any associated dangers as appropriate to the product type.” Kiantone, however, included information that was not applicable to its product and facilities.

In *Appendix C* of the *Public Awareness Program* there is a brochure named *Safety Awareness Information for Landowners*. Under the section *SIGNS OF A RELEASE* of the *Safety Awareness Information for Landowners* brochure there is a list. The list is divided into three senses: *Sight*, *Sound* and *Smell*. Under *Sight* it states, in part: “[d]irt blowing into the air and “[w]hite vapor cloud frozen area on ground. Under *Smell* it states, in part: “[n]atural gas is colorless and odorless- unless mercaptan has been added (rotten egg odor).” These are characteristics related to natural gas which could be misleading to the affected public stakeholders because Kiantone does not transport natural gas. Additionally, Kiantone’s annual meeting invitation package for excavator stakeholders contains similar misleading information. The annual meeting invitation package states “[d]istribution lines can be made of either steel or high-strength plastic and provide the final link in delivering the vital resources needed to heat our homes businesses. . . .” A public awareness program, including the message content in the printed materials, should be tailored to the operator’s product(s) and facilities.

6. **§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.

Kiantone failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 4.4.1.

API RP 1162 Section 4.4.1 states that “[t]he operator’s key messages to emergency officials should emphasize that public safety and environmental protection are top priorities in any pipeline emergency response.”

Appendix D in the *Public Awareness Program* contains a baseline message that was sent to emergency officials. That baseline message did not contain this information about public safety and environmental protection being a top priority in any pipeline emergency response, as mentioned in Section 4.4.1 of API RP 1162.

7. **§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.

Kiantone failed to follow the general program recommendations, including baseline and supplemental requirements under API RP 1162 Section 4.7. Specifically, Kiantone did not provide information about whether it has High Consequence Areas (HCAs) and/or an Integrity Management Program (IMP) to the affected public, emergency officials, and public officials.

Section 4.7 of API RP 1162 describes the information that should be included in the message content to the affected public, emergency officials, and public officials within HCAs. Pursuant to Section 4.7.1 of API RP 1162, operators should include general information that some segments along their transmission pipeline are designated as HCAs and that an IMP has been developed, to affected public. Also, operators should include information on where to obtain an overview of their IMP or view upon request. Kiantone's brochure in *Appendix C* of the *Public Awareness Program*, which was mailed to the affected public, did not contain the aforementioned information.

In addition, Section 4.7.2 of API RP 1162 requires operators to include an overview of the IMP to emergency officials, as well as a chance for them to provide feedback on the IMP. Kiantone's brochure in *Appendix D* of the *Public Awareness Program*, which was mailed to the emergency officials, did not contain information about its IMP and how to provide feedback. In addition, the annual meeting invitation package sent to the emergency officials did not contain that information.

Furthermore, Section 4.7.3 of API RP 1162 requires operators to include information on where to obtain an overview of their IMP or view upon request, to the public officials. Kiantone's brochure in *Appendix D* of the *Public Awareness Program*, which was mailed to the public officials, did not contain the aforementioned information.

Kiantone did not include the information outlined under Section 4.7 of API RP 1162 to the appropriate stakeholders.

8. **§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.

Kiantone failed to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 4.9.

API RP 1162 Section 4.9 states that “operators should communicate that encroachments upon the pipeline [Right-of-Way (ROW)] inhibit the operator’s ability to respond to pipeline emergencies, eliminate third-party damage, provide ROW surveillance, perform routine maintenance, and perform required federal/state inspections. . . .”

The printed materials in *Appendices C and D* of the *Public Awareness Program* that were mailed to the affected public, emergency officials, and public officials, did not include information described in Section 4.9 of API RP 1162. In addition, the annual meeting invitation sent to those stakeholders did not contain that information.

9. §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.

Kiantone did not follow the general program recommendations, including baseline and supplemental requirements of API RP 1162 Section 4.11.

API RP 1162 Section 4.11, states that “operators should communicate an overview pertaining to security of their pipelines and related facilities.”

The printed materials in *Appendices C and D* of the *Public Awareness Program* that were mailed to the affected public, emergency officials, and public officials, did not include information described in Section 4.11 of API RP 1162. In addition, the annual meeting invitation sent to those stakeholders did not contain that information.

10. §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.

Kiantone failed to follow the general program recommendations, including baseline and supplemental requirements under API RP 1162 Section 8.4. Specifically, Kiantone did not evaluate outreach for the affected public, in accordance with Section 8.4.1 of API RP 1162. Additionally, Kiantone did not evaluate the understandability for each stakeholder for the affected public, in accordance with Section 8.4.2 of API RP 1162.

Section 8.4 of API RP 1162 mentions an evaluation of all stakeholders: affected public, emergency officials, local public officials, and excavators. Pursuant to Section 8.4.1 operators should evaluate the percentage of each intended audience reached with desired messages. During the inspection, Kiantone produced documentation and records that showed that it reviewed the results of the attendance percentage for excavators, local officials and emergency officials that attended the annual Contractor Organized Programs through 2006-2011. Kiantone noted in a record of its evaluation conducted on January 23, 2012 that “no changes are necessary to its current program as a result of the attendance and believes the current seminar program remains effective.” Kiantone, however, did not evaluate outreach for the affected public.

Section 8.4.2 of API RP 1162 requires operators to “assess the percentage of the intended stakeholders that understood and retained the key information in the message received.” Also, “operators should pre-test public awareness materials for [its] appeal and the messages for their clarity, understandability and retainability before they are widely used.” *Appendix F* in the *Public Awareness Program* contains a sample feedback survey. This feedback does not evaluate the understandability for the affected public. Also, Kiantone did not consider sample size when drawing general conclusions regarding the understandability of the message content based on feedback survey data from stakeholders. Kiantone did not estimate the percentage of each stakeholders actually reached within the target geographic region along the pipeline, nor did it pre-test their public awareness materials.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 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 Kiantone 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 1-2013-5023W**. Please send all correspondence in this matter to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. 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,

Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

CC: NY DPS – Mr. Kevin Speicher