



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

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

NOTICE OF AMENDMENT

OVERNIGHT EXPRESS MAIL

November 26, 2013

Edward Jacobi
Executive Vice President of Logistics
Delaware Pipeline Company, LLC
One Sylvan Way
Parsippany, NJ 07054

CPF 1-2013-5030M

Dear Mr. Jacobi:

From May 22 to May 24, 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 Delaware Pipeline Company, LLC (Delaware Pipeline) Public Awareness Program titled *Public Awareness Program Delaware Pipeline Company, May 01, 2012 Edition (Public Awareness Program)*, in Delaware City, Delaware.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within Delaware Pipeline's procedures, as described below:

1. **§195.440 Public awareness.**
 - (a) . . .
 - (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.**

Delaware Pipeline's written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow the general program recommendations in Sections 2.7 and 5.1.4 of API RP 1162 and assess the unique attributes and characteristics of its pipeline and facilities. Specifically, the *Public Awareness Program* did not have a detailed procedure for the implementation and management of business reply cards (BRCs).

An inclusion of response cards (often referred to bounce back cards or business reply cards (BRCs)) can be used in a variety of ways, as prescribed in Section 5.1.4 of API RP 1162. Some ways that a response card could be used is for input, feedback, and/or comments. As such, an operator should have an "[established] process for management of input/feedback/comments received", as stated in Section 2.7 under Step 8 of API RP 1162.

Delaware Pipeline included BRCs with brochures mailed to stakeholders and comment/feedback and Emergency Response Preparedness Report questionnaires with liaison meeting material. However, there was no documented process or procedure for the distribution, collection, review, and follow-up of these BRCs or comment/feedback and questionnaires in the *Public Awareness Program*.

2. **§195.440 Public awareness.**

(a) . . .

(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.

Delaware Pipeline's written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow the general program recommendations in Section 4 of API RP 1162 to assess the unique attributes and characteristics of its pipeline and facilities. Specifically, the *Public Awareness Program* did not have a detailed written process for providing programs in both English and in other languages commonly used by significant concentration of non-English speaking population along the pipeline.

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 contain a detailed process for providing programs in both English and in other languages commonly used by significant concentration of non-English speaking population along the pipeline. Section 5.1 of *Public Awareness Program* states that "if a significant number and concentration of a non-English speaking population is present in the affected public awareness area (greater than 10%)," than its brochure would be presented in the language(s) used by that population. However, the *Public Awareness Program* did not have a documented process on how this percentage of non-English speaking population should be determined, the frequency of evaluation, and who should be responsible for conducting the evaluation.

3. **§195.440 Public awareness.**

(a) . . .

(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.

Delaware Pipeline's written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow the general program recommendations in Section 4.10 of API RP 1162 to assess the unique attributes and characteristics of its pipeline and facilities.

According to Section 4.10 of API RP 1162, "[p]ipeline maintenance-related construction activities should be communicated to the audience affected by the specific activity in a timely manner appropriate to the nature and extent of the activity."

During this inspection, Delaware Pipeline representatives indicated that it utilizes a "*Public Awareness Documentation Form*" to document face-to-face contact with stakeholders. According to Delaware Pipeline representatives, these forms are completed by Delaware Pipeline personnel making contact with stakeholders and are retained in their public awareness binder at the Delaware Pipeline's office. Delaware Pipeline

representative stated that this form is used to document communications such as pre-maintenance related activities required under Section 4.10 of API RP 1162. However, this process for communicating to the audience affected by specific pipeline maintenance-related construction activities was not included in the *Public Awareness Program*.

4. §195.440 Public awareness.

(a) . . .

(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.

Delaware Pipeline's written continuing public education program, *Public Awareness Program*, was inadequate because it failed to follow the general program recommendations in Section 7.1(g) of API RP 1162 to assess the unique attributes and characteristics of its pipeline and facilities. Section 7.1(g) of API RP 1162 states that the written program should include the program evaluation process, including the methodology to be used to perform the evaluation and analysis of the results and criteria for program improvement based on the results of the evaluation.

The *Public Awareness Program* lacked a detailed written process on how to determine whether the program has been developed and implemented according to API RP 1162, as mentioned in Section 8.3 of API RP 1162. Also, the *Public Awareness Program* lacked a detailed written process on how to determine whether the actions undertaken in implementation of API RP 1162 are achieving the intended goals and objectives, as mentioned in Section 8.4 of API RP 1162. Overall, the *Public Awareness Program* lacked procedures for conducting the evaluations as outlined in Section 8 of API RP 1162. Moreover, the *Public Awareness Program* had no information on what metrics/criteria/rational is used to determine if a modification to the baseline program and/or supplemental program enhancements are necessary.

Response to this Notice

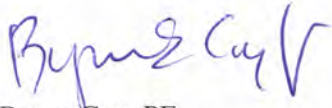
This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237. Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit 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 **90** 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 Delaware Pipeline maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and

submit the total to, as well as any correspondence relating to this Notice to: Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. Please refer to **CPF 1-2013-5030M** on each document you submit, and please provide a (signed) copy in electronic format whenever possible. Smaller files may be emailed to Byron.Coy@dot.gov. Larger files should be sent on a CD accompanied by the original (signed) paper copy to the Eastern Region Office.

Sincerely,

A handwritten signature in blue ink that reads "Byron Coy" followed by a checkmark-like flourish.

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

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