

Introduction

The materials contained in this document consist of guidance, techniques, procedures and other information for internal use by the PHMSA pipeline safety enforcement staff. This guidance document describes the practices used by PHMSA pipeline safety investigators and other enforcement personnel in undertaking their compliance, inspection, and enforcement activities. This document is U.S. Government property and is to be used in conjunction with official duties.

The Federal pipeline safety regulations (49 CFR Parts 190-199) discussed in this guidance document contains legally binding requirements. This document is not a regulation and creates no new legal obligations. In the event of a conflict between this document and any regulation, the regulation would be controlling. The materials in this document are explanatory in nature and reflect PHMSA's current application of the regulations in effect at the time of the issuance of the guidance to the implementation scenarios presented in the materials. Alternative approaches are not precluded if they satisfy the requirements of the applicable regulation(s).

Nothing in this guidance document is intended to diminish or otherwise affect the authority of PHMSA to carry out its statutory, regulatory or other official functions or to commit PHMSA to taking any action that is subject to its discretion. Nothing in this document is intended to and does not create any legal or equitable right or benefit, substantive or procedural, enforceable at law by any person or organization against PHMSA, its personnel, State agencies or officers carrying out programs authorized under Federal law.

Decisions about specific investigations and enforcement cases are made according to the specific facts and circumstances at hand. Investigations and compliance determinations often require careful legal and technical analysis of complicated issues. Although this guidance document serves as a reference for the staff responsible for investigations and enforcement, no set of procedures or policies can replace the need for active and ongoing consultation with supervisors and colleagues in enforcement matters.

Comments and suggestions for future changes and additions to this guidance document are invited and should be forwarded to your supervisor.

The materials in this guidance document may be modified or revoked without prior notice by PHMSA management.

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(a)
Section Title	
Existing Code Language	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).
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003) – Section 2 Public Awareness Program Development: Section 2.3.1 Public Education; and Section 2.7 Program Development Guide. Also reference –Section 7 Program Documentation and Recordkeeping; Section 7.1 Program Documentation; Section 7.2 Recordkeeping; and Section 7.3 Record Retention.
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires that pipeline operators develop and implement a written continuing public education program, and that its program follow the guidance provided in the API RP 1162. 2. The sections of API RP 1162 noted above, provide recommendations on the development and implementation of the pipeline operator's written continuing education program. 3. <i>In the Matter of Tampa Bay Pipeline Co., [2-2008-6002] (Final Order – April 26, 2010; Decision on Petition for Reconsideration-August 27, 2010)</i> PHMSA held that the operator violated § 195.404(a) because the operator failed to implement its public awareness program. Specifically, the operator failed to communicate annually with emergency personnel. CO. 4. <i>In the Matter of Tesoro-High Plains Pipeline Company [3-2005-5006] (Final Order – January 11, 2006)</i> PHMSA held that operator violated § 195.404 because the operator failed to address the public, government officials, and emergency officials in its public awareness program. Stakeholders need to know how to recognize pipeline location markers, what kind of precautions they should take, what kind of properties the commodity being transported has and how to recognize and respond to a pipeline emergency. The operator contended that a change in ownership was the cause of the delay. However, it is critical that public education contacts are updated in a timely manner. In the event of a pipeline emergency, the public and government officials must be able to reach the correct operator of the system immediately. CP. 5. <i>In the Matter of Mid-Valley Pipeline Company [3-2003-5022] (Final Order – January 3, 2006)</i> PHMSA held that the operator violated § 195.404 because the operator failed to address the public, government officials, and emergency officials in

	<p>its public awareness program. The operator contended that it issued calendars to right-of-way owners each year. However, the operator could not demonstrate that this material met the requirements of the regulation. Stakeholders need to know how to recognize pipeline location markers, what kind of precautions they should take, what kind of properties the commodity being transported has and how to recognize and respond to a pipeline emergency. CP.</p>
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The pipeline operator did not develop 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). 2. The pipeline operator did not 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).
Examples of Evidence	<ol style="list-style-type: none"> 1. Copy of the operator's written Public Awareness Program 2. Documented conversations with the operator personnel 3. Operator records
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(b)
Section Title	
Existing Code Language	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.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003) – Section 2 Public Awareness Program Development: Section 2.6 Baseline and Supplemental Public Awareness Programs; Section 2.7 Program Development Guide; Section 2.8 Summary of Program Recommendations; Also reference – Section 4 Message Content: Section 4.3.1 Potential Hazardous of Products Transported; and – Section 6 Recommendations for Supplemental Enhancements of Baseline Public Awareness Program.
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires that the operator's program follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline. 2. The guidance provided in the sections of API RP 1162 noted above, indicate how a “one-size-fits-all” public awareness program across all pipeline systems would not be the most effective approach. Section 195.440(b) requires that an operator assess the unique attributes and characteristics of its pipeline in developing its public awareness program.
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The operator's program did not follow the general program recommendations of API RP 1162. 2. The operator's program did not assess the unique attributes and characteristics of its pipeline and facilities.
Examples of Evidence	<ol style="list-style-type: none"> 1. Documents from the operator identifying the unique attributes and characteristics of its pipeline and facilities. 2. Copy of the operator's written Public Awareness Program. 3. Documented statements from operator personnel 4. Operator Records
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(c)
Section Title	
Existing Code Language	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.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	<p>API RP 1162 (1st edition, dated December 2003) –Section 2 Public Awareness Program Development: Section 2.6 Baseline and Supplemental Public Awareness Programs. Also reference – Section 6 Recommendations for Supplemental Enhancements of Baseline Public Awareness Program.</p> <p>70 FR 28843: The preamble states the following:</p> <p>“Under this Rule, each operator is required to develop and implement a public awareness program consistent with guidance provided in API 1162. The operator’s program must include all applicable elements of API RP 1162 that are baseline, or the operator must document the rationale and justification for why those elements are not included in its program. The operator must also document consideration as to the supplemental elements of RP 1162 and provide the basis for program inclusion or exclusion of those elements.” 70 FR 28837 (May 19, 2005).</p>
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires operators to follow the general program recommendations, including baseline and supplemental requirements of API RP 1162. 2. The sections of API RP 1162 cited above are part of the baseline and supplement requirements. These sections recommend further “enhancements” to supplement the operator’s basic public awareness program. 3. <i>In the Matter of Tampa Bay Pipeline Co., [2-2008-6002] (Final Order – April 26, 2010; Decision on Petition for Reconsideration-August 27, 2010)</i> PHMSA held that operator violated § 195.404(c) because the operator failed to follow the baseline and supplemental recommendations of API 1162. Specifically, the operator failed to include a minimum communication coverage area and the addresses of the affected stakeholders in its public awareness plan. CO.
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The operator did not follow the general program recommendations, including baseline and supplemental requirements of API RP 1162. 2. Where the operator did not follow the general program recommendations, including

	<p>baseline and supplemental requirements of API RP 1162, the operator has not provided justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice are not practicable and not necessary for safety.</p> <ol style="list-style-type: none"> 3. The operator did not follow the general program recommendations which include retaining records for each category – as required by API RP 1162 Section 7.2 – for a minimum of five (5) years, or as defined in the operator’s public awareness program, whichever is longer. 4. The operator’s public awareness program did not specify the record retention period for each category – as required by API RP 1162 Section 7.2.
Examples of Evidence	<ol style="list-style-type: none"> 1. Copy of the operator's written Public Awareness Program 2. Documented statements from operator personnel 3. Operator records
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(d)
Section Title	
Existing Code Language	<p>The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on:</p> <ul style="list-style-type: none"> (1) Use of a one-call notification system prior to excavation and other damage prevention activities; (2) Possible hazards associated with unintended releases from a hazardous liquid or carbon dioxide pipeline facility; (3) Physical indications that such a release may have occurred; (4) Steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release; and (5) Procedures for reporting such an event.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	<p>Alert Notice: ALN-91-04, NTSB Recommendations S P-91-3/P-91-4, 03/15/90 NY leak/explosion: Requiring operators to extend their public education/emergency preparedness programs.</p> <p>The Alert notice noted that NTSB had released recommendations after a March 15, 1990 propane leak and explosion in New York State. The NTSB recommendations included urging operators to extend their public awareness programs to persons who reside at elevations lower than and within 1-mile of the pipeline.</p> <p>Section 195.440(d) requires operators to establish continuing education programs to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize and report a hazardous liquid pipeline emergency to the operator, fire department, police, or other appropriate public officials.</p>
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003) – Section 3 Stakeholder Audiences; Appendix B – Examples of Stakeholder Audiences; – Section 4 Message Content; Appendix C – Detailed Guidelines For Public Awareness Messages; and Table 2-1 – Summary Public Awareness Communications for Hazardous Liquids and Natural Gas Transmission Pipeline Operators.
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires that an operator's program specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities. 2. The sections of API RP 1162 noted above provide in-depth recommendations regarding the intended stakeholder audiences, as well as the content of the message(s) that should be delivered.
Examples of a Probable	<ol style="list-style-type: none"> 1. The operator's program failed to have specific provisions to educate the public,

Violation	<p>appropriate government organizations, and persons engaged in excavation related activities on the use of a one-call notification system prior to excavation and other damage prevention activities; or</p> <ol style="list-style-type: none"> 2. The operator failed to include specific provisions regarding the possible hazards associated with unintended releases from a hazardous liquid or carbon dioxide pipeline facility; or 3. The operator failed to include specific provisions regarding the physical indications that such a release may have occurred; or 4. The operator failed to include specific provisions regarding the steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release; or 5. The operator failed to include specific provisions regarding the procedures for reporting such an event.
Examples of Evidence	<ol style="list-style-type: none"> 1. Copy of the operator's written Public Awareness Program.
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(e)
Section Title	
Existing Code Language	The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003)) – Section 2 Message Content: Section 2.8 Summary of Program Recommendations; –Section 4 Message Content: Section 4.6 Pipeline Location Information; – 5 Message Delivery Methods and/or Media: Section 5.7 Pipeline Marker Signs; and Table 2-1 – Summary Public Awareness Communications for Hazardous Liquids and Natural Gas Transmission Pipeline Operators.
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires that the pipeline operator’s program include activities to advise affected municipalities, school districts, businesses, and residents of its pipeline facility and its pipeline facility locations. 2. The sections of API RP 1162 noted above provide guidance on the stakeholder audience, message types, and the frequency of message(s) to be delivered.
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The program does not include activities to advise affected municipalities, school districts, businesses, and/or residents of pipeline facility locations.
Examples of Evidence	<ol style="list-style-type: none"> 1. Copy of operator’s maps identifying pipeline facility locations. 2. Identification of municipalities, school districts, businesses, and residents affected by the operator’s pipeline facilities. 3. Copy of the operator's written Public Awareness Program. 4. Copies of the media used.
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(f)
Section Title	
Existing Code Language	The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports hazardous liquid or carbon dioxide.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003) –Section 2 Public Awareness Program Development: Section 2.2 Overview for Meeting Public Awareness Objectives; – Section 3 Stakeholder Audiences; and –Section 5 Message Delivery Methods and/or Media; Appendix D – Detailed Guidelines for Message Delivery Methods and/or Media; Table 2-1 – Summary Public Awareness Communications for Hazardous Liquids and Natural Gas Transmission Pipeline Operators; and Table 2-2 – Summary Public Awareness Communications for Local Natural Gas Distribution (LDC) Companies.
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires that the pipeline operator’s public awareness program and the media used to communicate its public awareness program must be as comprehensive as necessary to reach all areas in which the operator transports hazardous liquid or carbon dioxide. 2. The sections – and Appendix D – of API RP 1162 noted above indicate that not all methods [of message delivery] are effective in all situations. API RP 1162 recommends that an operator think “broadly” when developing its public awareness program and choice of media, such that its program and chosen media reach all areas in which it transports hazardous liquid or carbon dioxide.
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The program and the media used are not comprehensive enough to reach all areas in which the operator transports hazardous liquid or carbon dioxide.
Examples of Evidence	<ol style="list-style-type: none"> 1. Identification of all areas in which the operator transports hazardous liquid or carbon dioxide. 2. Copy of the operator’s maps identifying pipeline facility locations. 3. Copy of the operator's written Public Awareness Program. 4. Copies of the media used.
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(g)
Section Title	
Existing Code Language	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.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003) – Section 2 Public Awareness Program Development: Section 2.3.1 Public Education. Also see – Section 4 Message Content; and Appendix C – Detailed Guidelines for Public Awareness Messages.
Guidance Information	1. The regulation requires that the operator’s program be conducted in English and in other languages commonly understood by a significant number of non-English speaking persons affected by the operator’s pipeline.
Examples of a Probable Violation	1. The program is not 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.
Examples of Evidence	1. Identification of the non-English languages spoken in the operator's area (if applicable). 2. Identification of the location(s) of the non-English speaking population in the operator's area (if applicable). 3. Copy of operator’s maps identifying pipeline facility locations. 4. Copy of the operator's written Public Awareness Program. 5. Documented statements from operator personnel.
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(h)
Section Title	
Existing Code Language	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.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	<p>Advisory Bulletin: ADB-06-02 Submission of Public Awareness Programs</p> <p>Owners and Operators of Gas and Hazardous Liquid Pipelines are required to complete a written public awareness program by June 20, 2006, [codified in the pipeline safety regulations at §195.440(h)]. Also, certain intrastate operators – with the exception of those operators that distribute gas through a master meter, or persons who distribute petroleum gas by pipeline as an incidental part of their primary business – must develop a public awareness program by June 20, 2006, and submit the written program to the PHMSA Public Awareness Program Clearinghouse by October 8, 2006 for review.</p> <p>Certain State pipeline safety agencies decided to conduct independent reviews of some intrastate operators’ public awareness programs. Thus, those operators were exempted from the centralized [PHMSA public awareness program] review process, and were advised where to submit their programs for review by the October 8, 2006 deadline.</p>
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003) – 7 Program Documentation and Recordkeeping: Section 7.1 Program Documentation.
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires that operators have completed their written programs no later than June 20, 2006. This regulation also requires operators to submit their completed programs upon request to PHMSA or, in the case of an intrastate pipeline facility operator, the appropriate State agency. 2. In reviewing recordkeeping requirements, the inspector is reminded to refer back to §195.440(c) which requires an operator to follow the general program recommendations of API 1162 including specific record retention requirements.
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The operator was in existence on June 20, 2005, but did not complete its written programs by June 20, 2006. 2. The operator was requested to, but did not submit its completed programs to PHMSA. 3. The operator is an intrastate pipeline facility operator, and was requested to, but did not submit its completed programs the appropriate State agency.

Examples of Evidence	1. Copy of the operator's written Public Awareness Program.
Other Special Notations	

Enforcement Guidance	Public Awareness Part 195
Revision Date	7/27/2011
Code Section	§195.440(i)
Section Title	
Existing Code Language	The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies.
Origin of Code	Amdt. 195-84, 70 FR 28843, May 19, 2005
Last Amendment	Amdt. 195-84, 70 FR 28843, May 19, 2005
Interpretation Summaries	
Advisory Bulletin/Alert Notice Summaries	
Other Reference Material & Source	API RP 1162 (1st edition, dated December 2003) – Section 7 Program Documentation and Recordkeeping: Section 7.1 Program Documentation; Section 7.2 Recordkeeping; Section 7.3 Record Retention; – Section 8 Program Evaluation; Appendix E – Additional Guidelines for Undertaking Evaluations and Table 8-1- Summary of Baseline Evaluation Program Documentation and Recordkeeping
Guidance Information	<ol style="list-style-type: none"> 1. The regulation requires that the operator's program documentation and evaluation results be available for periodic review by appropriate regulatory agencies. 2. The sections – and Appendix E – of API RP 1162 noted above recommend operators maintain records of key program elements, including all program evaluations; current – and expected – program evaluation results; and any follow-up actions taken by the pipeline operator to demonstrate the level of implementation of its public awareness program. 3. In reviewing recordkeeping requirements, the inspector is reminded to refer back to §195.440(c) which requires an operator to follow the general program recommendations of API 1162 including specific record retention requirements.
Examples of a Probable Violation	<ol style="list-style-type: none"> 1. The operator's program documentation and evaluation results were not available for periodic review by appropriate regulatory agencies. 2. The operator did not maintain records of key program elements to demonstrate the level of evaluation of its public awareness program.
Examples of Evidence	<ol style="list-style-type: none"> 1. Copy of the operator's written Public Awareness Program. 2. Statements from operator personnel.
Other Special Notations	