



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

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609.989.2171

NOTICE OF AMENDMENT

OVERNIGHT EXPRESS MAIL

December 5, 2013

Mr. Barry Cigich
Vice President Operations and Engineering
Crestwood Midstream LLC.
Two Brush Creek Boulevard, Suite 200
Kansas City, MO 64112

CPF 1-2013-1034M

Dear Mr. Cigich:

Between August 27-31, 2012, inspectors from the New York State Department of Public Service (NYSDPS), acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the Central New York Oil & Gas Corporation (CNYOG) Public Awareness Program at the Owego, NY facilities.

On the basis of the inspection, PHMSA has identified apparent inadequacies within CNYOG plans or procedures, as described below:

1. §192.616 Public awareness

- (a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, 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 § 192.7).**

CNYOG's Public Awareness Program is inadequate because it failed to reference the API RP 1162 edition as seen in §192.7 (1st edition, December 2003). Specifically, CNYOG's Public Awareness Program references API RP 1162, but it does not specify the edition of API RP 1162.

There are two editions of API RP 1162. The 1st edition, December 2003, is the only version incorporated by reference in §192.7(c)(2). PHMSA has not adopted the 2nd edition. Therefore, it is important that the operator specify the edition of API RP 1162 being used to ensure that it complies with the edition incorporated by reference in the PHMSA regulations.

2. §192.616 Public awareness

- (a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, 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 § 192.7).**

CNYOG's Public Awareness Program is inadequate in that it failed to provide guidance on how CNYOG demonstrates management support of the Public Awareness Program as required by API RP 1162, Section 2.7, Overall Program Administration. Specifically, CNYOG's Public Awareness Program has a signatory space for the Director of Storage Operations to approve the procedure but it does not contain a statement of management support.

3. §192.616 Public awareness

- (a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, 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 § 192.7).**

CNYOG's Public Awareness Program is inadequate because it failed to follow the general program recommendations of API RP 1162 Section 7.1. Specifically, CNYOG's Public Awareness Program does not contain the name of the individual responsible for the program administration or information describing the resources committed for administering the program.

4. §192.616 Public awareness

(a)...

- (b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.**

CNYOG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 2.7 Step 4 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG did not include a full description of its facilities within its program as required by §192.161(b) API RP 1162, Section 2.7.

API RP 1162, Section 2.7 Program Development Guide states in Step 4:

Step 4. Identify Pipeline Assets to be Included within the Program

- The overall program may be a single Public Awareness Program for all pipeline assets, or may be divided into individual, asset-specific programs for one or more specific pipeline systems, one or more pipeline segments, one or more facilities, or one or more geographic areas. Smaller companies and LDCs may have just one overall program.
- Name an administrator for each asset specific program.
- Reference Section 7 for documentation.

CNYOG's Public Awareness Program provides generic information in its opening paragraph of the program, but it does not contain specific information describing CNYOG's facilities.

5. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 3 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's program did not detail the process, procedures or methods it used to identify stakeholders and did not identify excavator stakeholders for the distribution of targeted materials as required by §192.616(b) API RP 1162, Section 3.

API RP 1162, Section 3 Stakeholder Audiences states:

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.

CNYOG stated it identified the affected public from ROW lists, and the public and emergency officials based on the local municipalities, and did not identify any excavators to include on its Program.

6. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 3 Stakeholder audiences, and assess the unique attributes and characteristics of the operator's pipeline and facilities, and referred to Appendix B of API RP 1162.

The CNYOG program does not adequately identify or define the buffer/area/boundary/extent of notifications used for identifying stakeholders who should be included on their contact lists as required by §192.616 (b) API RP 1162 Section 3.

API RP 1162 Section 3 Stakeholder Audience defines the intended audiences that should be included in the public awareness program. For further explanations and examples, operators are referred to Appendix B of API RP 1162. In Appendix B of API RP 1162, under B.1.1 Affected Public, it states that "transmission pipeline operator should tailor its communication coverage area (buffer) to fit its particular pipeline, location, and potential impact consequences."

CNYOG's Public Awareness Program does not have, or document, the process / procedures / methods for identifying the buffer area distance around its facilities to notify stakeholders.

7. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 7.1 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program does not specifically include some of the required information detailing the process or procedures for identifying the methods of communication or the frequency of delivery as required by §192.616(c) API RP 1162, Section 7.1.

API RP 1162, Section 7.1 Program Documentation states that

“Each operator of a hazardous liquid pipeline system, natural gas transmission pipeline system, gathering pipeline system or a natural gas distribution pipeline system should establish (and periodically update) a written Public Awareness Program designed to cover all required components of the program described in this RP.

The written program should include:

- d. Identification of the media and methods of communication to be used in the program, as well as the basis for selecting the chosen method and media.
- e. Documentation of the frequency and the basis for selecting that frequency for communicating with each of the targeted audiences...”

CNYOG's Public Awareness Program does not document the basis for determining the media types or the frequency of communications to be distributed.

CNYOG's Public Awareness Program states the targeted distribution of baseline printed materials and the frequency of delivery, but it does not provide the basis for these methods and timing intervals.

8. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 8, and access the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program does not specifically include guidance detailing the process or procedures for program evaluations as required under §192.616(c) API RP 1162, Section 8.

API RP 1162, Section 8 Program Evaluation states that

“This section provides guidance to operators on how to periodically evaluate their Public Awareness Programs. The overall written program for the Public Awareness Program should include a section describing the operator's evaluation program that includes the baseline elements described in the following paragraphs. Also included are suggestions for operators to consider in periodically supplementing their evaluation efforts in a particular segment, with a selected stakeholder audience or to provide greater depth of evaluation. This section includes only a brief description of each element Appendix E provides additional explanations and examples for operator personnel who are new to developing Public Awareness Program evaluations...”

CNYOG's Public Awareness Program does not contain the process/procedures/method for implementing the program evaluations and effectiveness that are required under the API RP 1162.

9. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 4 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program does not include a process/procedure/method for identifying when it should be conducting the program in other languages commonly understood by a significant number of non-English speaking populations.

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.”

During the review, CYNOC representatives stated they only distribute their materials in English.

10. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG's Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 4 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG mailed a letter or brochure to various stakeholders which did not contain all of the specific information referenced in API RP 1162 Section 4. The CNYOG brochure does not include information such as the purpose and reliability, preventive measures, priority to protect life, construction and maintenance activities or pipeline security.

API RP 1162, Section 4 states that:

“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 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.”

From 2006 to 2011, CNYOG performed its own mailings and in 2012 obtained a vendor to perform the mailing function for excavators, public and emergency officials.

CNYOG used a standard letter or brochure for the mailings which did not contain all of the content required by API RP 1162. In 2012 CNYOG contracted with a vendor to develop and distribute a new mailing brochure, which also does not contain all of the required items to be mentioned under API RP 1162.

11. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG’s Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 6.2 and assess the unique attributes and characteristics of the operator’s pipeline and facilities.

CNYOG’s Public Awareness Program does not specifically include guidance detailing the process or procedures for the consideration of program enhancements as required by §192.616(c) in API RP 1162 Section 6.2.

API RP 1162 Section 6.2 Considerations of Relevant Factors states that

“When the operator develops its Public Awareness Program and performs subsequent periodic program evaluations, it is recommended that a step for assessing relevant factors along the pipeline route be included to consider what components of the Public Awareness Program should be enhanced.

The operator should consider each of the following factors applied along the entire route of the pipeline system:

- Potential hazards
- High Consequence Areas
- Population density
- Land development activity
- Land fanning activity
- Third-party damage incidents
- Environmental considerations
- Pipeline history in an area
- Specific local situations

- Regulatory requirements
- Results from previous Public Awareness Program evaluations
- Other relevant needs...”

CNYOG’s Public Awareness Program does not contain the process/procedures/method for considering the implementation of program enhancements.

12. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG’s Public Awareness Program was inadequate because it failed to follow API RP 1162 Section 4.4.3, and assess the unique attributes and characteristics of the operator’s pipeline and facilities.

CNYOG’s Public Awareness Program does not include the process/procedure/methods detailing the requirements of the interactions with emergency responders, its expectations for emergency responders or to determine whether the response organizations have adequate and proper resources to respond as required by §192.616(c) API RP 1162, Section 4.4.3.

API RP 1162, Section 4.4.3 Emergency Preparedness Response Plans: states that

“Operators are required by federal regulations to have emergency response plans. These plans should be developed for use internally and externally, with appropriate officials, and in accordance with applicable federal and state emergency regulations. 49 *CFR* 192 and 195 and some state regulations outline the specific requirements for emergency response plans and who to contact for additional information. The operator should include information about how emergency officials can access the operator’s emergency response plans covering their jurisdiction.”

CNYOG’s Public Awareness Program does not include any process/procedure/method for its interactions with emergency responders, including determining responder expectations or the adequacy of responder resources.

13. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG’s Public Awareness Program was inadequate because it failed to follow the general recommendations of API RP 1162 Section 8.3 for measuring its program implementation, and assess the unique attributes and characteristics of the operator’s pipeline and facilities.

CNYOG’s Public Awareness Program does not include guidance of the process or procedures for conducting the annual evaluations of the Public Awareness Program.

API RP 1162 Section 8.3 Measuring Program Implementation states that

“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...” and “- Has the public Awareness Program

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

CNYOG’s Public Awareness Program does not contain specific guidance for implementing any part of the annual evaluations including the four year effectiveness evaluation or the requirements for documentation of these reviews.

14. §192.616 Public awareness

(a)...

(b) The operator's program must follow the general program recommendations of API RP1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

CNYOG’s Public Awareness Program was inadequate because it failed to follow the general program recommendations of API RP 1162 Section 8.4.2, and assess the unique attributes and characteristics of the operator’s pipeline and facilities.

CNYOG’s Public Awareness Program does not include guidance of the process or procedures for measuring program effectiveness of the Public Awareness Program.

API RP 1162 Section 8.4.2 Measure 2– Understandability of the Content Message states that

“Program effectiveness surveys are meant to validate the operator’s methodologies and the content of the materials used. Upon initial survey, improvements should be incorporated into the program based on the results. Once validated in this initial manner, a program effectiveness survey is only required about every four years. However, when the operator introduces major design changes in its Public Awareness Program a survey to validate the new approaches may be warranted...”

CNYOG’s Public Awareness Program did not include the process or procedures for measuring the effectiveness of the program and did not meet any of the requirements for any of part of the evaluations.

CNYOG’s program does not contain the specifics for implementing any part of the evaluation review including the four year effectiveness evaluation or the requirements for documentation of these reviews.

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 CNYOG 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 120131034M** 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,

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

Cc: Kevin Speicher, NYSDPS

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