

**NOTICE OF PROBABLE VIOLATION  
PROPOSED CIVIL PENALTY  
and  
PROPOSED COMPLIANCE ORDER**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

March 13, 2009

Mr. Kevin Kosh  
Pipeline Operations Manager  
Air Products and Chemicals, Inc.  
10207 Strang Road  
La Porte, Texas 77571

**CPF 4-2009-1008**

Dear Mr. Kosh,

On August 6 – 10 and August 13 – 16, 2007, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your integrity management program in La Porte, Texas.

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 item inspected and the probable violation is:

1. **§ 192.937(b) Evaluation.** An operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be based on a data integration and risk assessment of the entire pipeline as specified in § 192.917. For plastic transmission pipelines, the periodic evaluation is based on the threat analysis specified in 192.917(d). For all other transmission pipelines, the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§ 192.917), and decisions about remediation (§ 192.933) and additional preventive and mitigative actions (§ 192.935). An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats.

At the time of the inspection, there was no documentation provided to demonstrate that periodic evaluations have been performed. Air Products has not performed periodic evaluations to confirm the adequacy of pipeline data, to verify the appropriate reassessment interval, or to determine if changes to assessment methods are needed since IMP inception.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violations persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$20,000 for the item above.

Proposed Compliance Order

With respect to item above pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Air Products and Chemicals, Inc. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

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.

In your correspondence on this matter, please refer to **CPF 4-2009-1008** and for each document you submit, please provide a copy in electronic format whenever possible

Sincerely,

R. M. Seeley  
Director, Southwest Region  
Pipeline and Hazardous  
Materials Safety Administration

Enclosures: Proposed Compliance Order  
Response Options for Pipeline Operators in Compliance Proceedings

## PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Office of Pipeline Safety proposes to issue to Air Products and Chemicals, Inc. a Compliance Order incorporating the following requirements to assure the compliance of Air Products and Chemicals, Inc. with the pipeline safety regulations applicable to its operations.

1. In regard to Item 1 in the Notice, Air Products and Chemicals, Inc. must review their periodic evaluation procedures and insure they are in compliance with §192.937(b) and provide this office the most current documentation that substantiates that periodic evaluations are being performed. The documentation must show that periodic evaluations confirm the adequacy of pipeline data, to verify the appropriate reassessment interval, or to determine if changes to assessment methods are needed.
2. Submit the results of the Proposed Compliance Order items above to the Region Director, Southwest Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, Texas 77074. This is to be accomplished within 30 days following receipt of the Final Order.
3. Air Products and Chemicals, Inc. shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. Costs shall be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.