

JUN 17 2010

Ms. Elizabeth Casciani
Vice President, Operations and Service
Praxair, Inc.
39 Old Ridgebury Road
Danbury, CT 06810

Re: CPF No. 4-2009-1011

Dear Ms. Casciani:

Enclosed is the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken by Praxair, Inc., to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. R.M. Seeley, Director, Southwest Region, PHMSA

Mr. James R. Ryan, Pipeline Regulatory Compliance Manager
203 Valle Vista Ct, Minooka, IL 60447

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0043 9528]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

_____)	
In the Matter of)	
)	
Praxair, Inc.,)	CPF No. 4-2009-1011
)	
Respondent.)	
_____)	

FINAL ORDER

Between September 10 and 27, 2007, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted a system-wide Integrity Management inspection of Praxair, Inc. (Praxair or Respondent) in Harris County, Texas. Respondent operates approximately 325 miles of natural gas pipelines, primarily in Texas, including a 232-mile pipeline between Deer Park, Texas, and Lake Charles, Louisiana.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 16, 2009, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 192.937(b) and proposed ordering Respondent to take certain measures to correct the alleged violation. The Notice also proposed finding that Respondent had committed a probable violation of 49 C.F.R. § 192.905 and warned Respondent to take appropriate corrective action or be subject to future enforcement action.

Praxair responded to the Notice by letter dated May 19, 2009 (Response). Respondent did not contest the violations as alleged in the Notice and stated the company would comply with the Proposed Compliance Order within 30 days of issuance of a Final Order. Respondent did not request a hearing and has therefore waived its right to one.

FINDING OF VIOLATION

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.937(b), which states:

§ 192.937 What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

- (a)
- (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.

The Notice alleged that Respondent violated § 192.937(b) by failing to conduct periodic evaluations as frequently as needed to assure the integrity of each covered segment. Specifically, the Notice alleged that at the time of inspection Respondent could not demonstrate that it had performed periodic evaluations to confirm the adequacy of its pipeline data, to verify the appropriate reassessment interval, or to determine if changes to assessment methods were needed.

Respondent did not contest this allegation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.937(b) by failing to conduct periodic evaluations as frequently as needed to assure the integrity of each covered segment of its pipeline.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with respect to Item 2 in the Notice for violation of 49 C.F.R. § 192.937(b). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must:

1. Conduct a documented review of current integrity management program procedures to determine whether they are adequate to ensure compliance with 49 C.F.R. § 192.937(b). Submit the procedures and documentation that demonstrates periodic evaluations are being performed in accordance with § 192.937(b). The documented evaluations must, at a minimum, confirm the adequacy of Praxair's pipeline data, verify the appropriate reassessment interval(s), and determine if changes to assessment methods are required.
2. Maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and report the total cost as follows: (a) total cost associated with preparation and revision of plans and procedures, and performance of studies and analyses; and (b) total cost associated with physical changes, if any, to the pipeline infrastructure, including replacements and additions.

3. Complete each of the above items and submit documentation of compliance within 30 days of receipt of this Final Order. Documentation shall be submitted to the Director, Southwest Region, Office of Pipeline Safety, 8701 South Gessner, Suite 1110, Houston, TX 77074-2949.

The Director may grant an extension of time to comply with the required item upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEM

With respect to **Item 1**, the Notice alleged a probable violation of 49 C.F.R. § 192.905, but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning is for:

49 C.F.R. § 192.905(b) – Respondent’s alleged failure to obtain information from public officials as required when it conducted a 2004 search for identified sites.

Based on a review of the record, it appears that Respondent eventually contacted public officials in 2006, as required, and found no additional identified sites. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.905(b) occurred and Respondent is hereby advised that in the event OPS finds a violation of this item in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to petition the Associate Administrator for reconsideration of this Final Order. A petition must be sent to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, and a copy sent to the Chief Counsel, PHMSA, at the same address. PHMSA is willing to accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided such petitions contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The terms of the Final Order, including any required corrective action, shall remain in effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued