



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 16, 2009

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

CPF 4-2009-1011

Dear Ms. Casciani,

On September 10 to 14 and September 24 to 27, 2007, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code inspected Praxair, Inc. (Praxair) procedures for Integrity Management in Deer Park, 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 items inspected and the probable violations are:

1. **§ 192.905(b)(1) Identified sites. An operator must identify an identified site, for purposes of this subpart, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency planning commission or relevant Native American tribal officials.
(2) If a public official with safety or emergency response or planning responsibilities informs an operator that it does not have the information to identify an identified site, the operator must use one of the following sources, as appropriate, to identify these sites.**

- i. **Visible marking (e.g., a sign); or**
- ii. **The site is licensed or registered by a Federal, State, or local government agency; or**
- iii. **The site is on a list (including a list on an internet web site) or map maintained by or available from a Federal, State, or local government agency and available to the general public.**

At the time of the inspection, the team found that, during the initial search in 2004 for identified sites, Praxair did not obtain information from public officials, as required by the § 192.905(b). Later in 2006, Praxair contacted public officials and as a consequence found no additional identified sites.

2. **§ 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. Praxair 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.

Warning Items

With respect to item 1 we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct any items that will prevent the recurrence of this issue. Be advised that failure to do so may result in being subject to additional enforcement action.

Proposed Compliance Order

With respect to item 2 above pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Praxair, 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 4-2009-1011** 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 Praxair, Inc. a Compliance Order incorporating the following requirements to assure the compliance of Praxair, Inc. with the pipeline safety regulations applicable to its operations.

1. In regard to Item 2 in the Notice, Praxair, 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. Praxair, 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.