

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

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

May 24, 2017

Mr. Ray Carr  
Head of Regional Operations  
Linde North America Inc.  
The Linde Group  
200 Somerset Cooperate Blvd  
Bridgewater, NJ 08807

**CPF 5-2017-6016**

Dear Mr. Carr:

On November 7 and 8, 2016, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code, inspected The Linde Group's CO2 pipeline facility in the vicinity of Green River, Wyoming.

As a result of the inspection, it is alleged 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. **§195.452 Pipeline integrity management in high consequence areas.**
  - (j) **What is a continual process of evaluation and assessment to maintain a pipeline's integrity?**
    - (1) **General.** After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.
    - (3) **Assessment intervals.** An operator must establish five-year intervals, not to exceed 68 months, for continually assessing the line pipe's integrity. An operator must base the assessment intervals on the risk the line pipe poses to the high consequence area to determine the priority for assessing the pipeline segments. An operator must establish the assessment intervals based on the factors specified in paragraph (e) of this section, the analysis of the results from the last integrity assessment, and the information analysis required by paragraph (g) of this section.

The Linde Group violated 49 C.F.R. § 195.452(j)(3) by failing to continually assess the line pipe's integrity at five-year intervals, not to exceed 68 months, to evaluate the integrity of each pipeline segment that could affect a high consequence area. The Linde Group used a pressure test to assess the integrity of the line pipe in accordance with 195.452 (j)(5)(ii). According to the Linde Group, the last pressure test was conducted in 2006. During the inspection, the Linde Group failed to present any evidence, including pressure test records, showing that they reassessed the pipeline's integrity within a five-year interval, not to exceed 68 months. In fact, a Linde Group compliance officer disclosed to PHMSA during the inspection that no pressure tests to assess the line pipe's integrity had been performed within the 5-year interval. Therefore, the Linde Group violated 49 C.F.R. § 195.452(j)(3).

2. **§191.22 National Registry of Pipeline and LNG Operators**
  - (c) **Changes.** Each operator of a gas pipeline, gas pipeline facility, LNG plant or LNG facility must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://opsweb.phmsa.dot.gov> of certain events.
    - (2) **An operator must notify PHMSA of any of the following events not later than 60 days after the event occurs:**
      - (i) **A change in the primary entity responsible (i.e., with an assigned OPID) for managing or administering a safety program required by this part covering pipeline facilities operated under multiple OPIDs.**
      - (ii) **A change in the name of the operator;**

The Linde Group violated 49 C.F.R. § 191.22(c)(2)(i) by failing to notify PHMSA of a change in the primary entity responsible for managing or administering a safety program required by this part covering pipeline facilities operated under multiple OPIDs not later than 60 days after the event occurred. In 2006, The Linde Group acquired BOC Gases, resulting in a change in the primary entity responsible for managing or administering a safety program required by this Part. However, The Linde Group did not notify PHMSA of this change in

operatorship of the pipeline. Therefore, by failing to notify PHMSA of this change in the primary entity responsible for managing or administering a safety program required by Part 191 covering pipeline facilities operated under multiple OPIDs not later than 60 days after the change in ownership, The Linde Group violated 49 C.F.R. § 191.22(c)(2)(i).

**3. §195.403 Emergency Response Training.**

**(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.**

The Linde Group violated 49 C.F.R. § 195.403(c) by failing to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance. During the inspection, The Linde Group failed to provide any evidence, including but not limited to training records, to show that its site manager Kevin Harris, responsible for implementing the facility response plan, maintained a thorough knowledge of these emergency response procedures for which he was responsible to ensure compliance for 2016.

**4. §195.420 Valve maintenance.**

**(b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.**

The Linde Group violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve to determine that it is functioning properly at intervals not exceeding 7 ½ months, but at least twice each calendar year. During the inspection, The Linde Group provided PHMSA only one valve maintenance inspection record for 2015, and offered no other evidence that it conducted an additional mainline valve inspection during that calendar year. Therefore, it failed to perform valve maintenance at intervals not to exceed 7 ½ months, but at least twice in 2015. It also failed to present any evidence that it inspected each mainline valve to determine that it was functioning properly from 2011-2014. Therefore, by failing to conduct valve maintenance inspections at intervals not exceeding 7 ½ months, but at least twice each calendar year for 2011-2015, The Linde Group violated 49 C.F.R. § 195.420(b).

**5. §195.583 What must I do to monitor atmospheric corrosion control?**

**(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:**

**If the pipeline is located: Then the frequency of inspection is: Onshore At least once every 3 calendar years, but with intervals not exceeding 39 months**

The Linde Group violated 49 C.F.R. § 195.583(a) by failing to inspect each onshore pipeline or portion of pipeline exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months. During the

inspection, The Linde Group failed to provide PHMSA with any evidence that it inspected its onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, including but not limited to any inspection records. Therefore, by failing to demonstrate that it inspected its onshore pipeline, or portion of pipeline exposed to the atmosphere, for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months, The Linde Group violated 49 C.F.R. § 195.583(a).

#### Warning Items

With respect to Items 3, 4 and 5, 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 these items. Failure to do so may result in additional enforcement action.

#### Proposed Civil Penalty

Under 49 United States Code, §60122, you are subject to a civil penalty not to exceed \$205,638 per violation per day the violation persists up to a maximum of \$2,056,380 for a related series of violations. For violations occurring between January 4, 2012 to August 1, 2016, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for related series of violations.

<u>Item number</u>	<u>PENALTY</u>
Item 1	\$43,200

#### Proposed Compliance Order

With respect to Item 1 and 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to The Linde Group. 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. All material you submit in response to this enforcement action may be 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 5-2016-6016** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Chris Hoidal  
Director, Western Region  
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry  
PHP-500 G. Ogirima (#154571)

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to The Linde Group a Compliance Order incorporating the following remedial requirements to ensure the compliance of The Linde Group with the pipeline safety regulations:

1. In Regards to item Number 1 pertaining to continual process of evaluation and assessment to maintain a pipeline's integrity, The Linde Group must within 120 days assess the integrity of its pipeline in accordance with 195.452 (c) and provide a written record of compliance to PHMSA's Western Region Office within 30 days of the integrity assessment.
2. In regard to Item Number 2 of the Notice pertaining to notification of change of the primary entity responsible for administering a safety program, The Linde Group must notify PHMSA of a change in the primary entity responsible for administering a safety program within 30 days of receipt of this Notice.
3. It is requested (not mandated) that The Linde Group maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs 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.