U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration

8701 S. Gessner, Suite 630
Houston TX 77074

NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER

VIA ELECTRONIC MAIL TO: maionef@airproducts.com

October 21, 2024

Mr. Francesco Maione
President
Air Products & Chemicals Inc.
1940 Air Products Blvd
Allentown, Pennsylvania 18106

CPF 4-2024-045-NOPV

Dear Mr. Maione:

From June 20 through September 27, 2023, of the on-site inspection, 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 (U.S.C.) inspected Air Products & Chemicals Inc.'s (Air Products) hydrogen gas pipeline system in Los Angeles County, California.

As a result of the inspection, it is alleged that Air Products has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 192.491 Corrosion control records.

(a) . . . .

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years with the following exceptions:

(1) Operators must retain records related to §§ 192.465(a) and (e) and 192.475(b) for as long as the pipeline remains in service.

(2) Operators must retain records of the two most recent atmospheric corrosion inspections for each distribution service line that is being inspected under the interval in § 192.481(a)(2).

Air Products failed to maintain a record of each test, survey, or inspection required by Part 192, Subpart I in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist in accordance with § 192.491(c). Specifically, Air Products failed to maintain records to demonstrate compliance with the atmospheric corrosion control requirements at § 192.481(a) for Line 1006.

During the PHMSA inspection, Air Products failed to provide records demonstrating that an atmospheric corrosion inspection had been conducted on Line 1006 for calendar year 2019. This pipeline was inspected on March 31, 2022, however no record of the previous 3-year inspection was provided. This pipeline has been in active service for at least the past 5 years. Pursuant to § 192.491(c) these records must be retained for at least 5 years.

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).

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Air Products failed to implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 in accordance with § 192.616(a). Specifically, Air Products failed to determine if any changes were necessary after conducting an effectiveness review of its public awareness program (PAP) in accordance with section 5.9.1 and 5.10 of its *Pipeline Public Awareness Program (PAP):34-110301AM (Rev 11; June 27, 2024);* and API RP 1162 section 2.6, step 12.

Air Products conducted an effectiveness review of its PAP, referred to as the *Four-Year Effectiveness Evaluation (Apr. 25, 2022)*. This evaluation included "Key Findings" and "Considerations." However, Air Products failed to review the "Key Findings" and "Considerations" and determine if any changes were necessary to improve the effectiveness of its PAP as required by section 5.9.1, 5.10 and API RP 1162 section 2.6, step 12.

3. § 192.907 What must an operator do to implement this subpart?

(a) *General.* No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in § 192.911 and that addresses the risks on each covered transmission

pipeline segment. The initial integrity management program must consist, at a minimum, of a framework that describes the process for implementing each program element, how relevant decisions will be made and by whom, a time line for completing the work to implement the program element, and how information gained from experience will be continuously incorporated into the program. The framework will evolve into a more detailed and comprehensive program. An operator must make continual improvements to the program.

Air Products failed to follow its written integrity management program in accordance with § 192.907(a). Specifically, Air Products failed to complete a questionnaire to select an appropriate inline inspection tool (ILI) in accordance with section 5.1.3 of its *Pipeline Integrity Management In-Line Inspection Plan: 34-0754 (Rev. 4; June 27, 2024).*

Air Products failed to provide the completed ILI vendor questionnaire or otherwise indicate it completed the questionnaire.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed $266,015 per violation per day the violation persists, up to a maximum of $2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed $257,664 per violation per day the violation persists, up to a maximum of $2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed $239,142 per violation per day the violation persists, up to a maximum of $2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed $225,134 per violation per day the violation persists, up to a maximum of $2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed $222,504 per violation per day the violation persists, up to a maximum of $2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed $218,647 per violation per day the violation persists, up to a maximum of $2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed $213,268 per violation per day, with a maximum penalty not to exceed $2,132,679.

We have reviewed the circumstances and supporting documents involved in this case and have decided not to propose a civil penalty assessment at this time.

Proposed Compliance Order

With respect to Item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Air Products & Chemicals Inc. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items
With respect to Items 1 and 3**,** 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.

Response to this Notice
Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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 you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 4-2024-045-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,
BRYAN JEFFERY LETHCOE

Digitally signed by BRYAN JEFFERY LETHCOE
Date: 2024.10.21 13:51:09 -05'00'

Bryan Lethcoe
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: J. W. Riley, Compliance Manager, North American Pipelines, rileyjw@airproducts.com
Ron Wills, Director, North American Pipeline Operations, willsrm@airproducts.com

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Air Products & Chemicals Inc. a Compliance Order incorporating the following remedial requirements to ensure the compliance with the pipeline safety regulations:

A. In regard to Item 2 of the Notice pertaining Air Products' failure to implement a written continuing public education program that follows the guidance provided in the API RP 1162, Air Products must review the "Key Findings" and "Considerations" from the *Four-Year Effectiveness Evaluation* and determine if any changes are necessary to improve the effectiveness of its public awareness program. Air Products must provide evidence of this evaluation and the updated public awareness program, if applicable, to the Director, Southwest Region, PHMSA within **30** days of receipt of the Final Order.

B. It is requested (not mandated) that Air Products & Chemicals Inc. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, Director, Southwest 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.