

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

VIA ELECTRONIC MAIL

April 21, 2023

Daniel Woods
VP LNG Operations
Cove Point LNG, LP
2100 Cove Point Road
Lusby, Maryland 20657

CPF 4-2023-033-NOPV

Dear Mr. Woods:

From August 15 through September 29, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected the plans, procedures, and records for the Cove Point Liquefied Natural Gas (LNG) facility in Lusby, Maryland.

As a result of the inspection, it is alleged that Cove Point LNG 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. § 193.2521 Operating records.

Each operator shall maintain a record of results of each inspection, test and investigation required by this subpart. For each LNG facility that is designed and constructed after March 31, 2000, the operator shall also maintain related inspection, testing, and investigation records that NFPA-59A-2001 (incorporated by reference, *see* § 193.2013) requires. Such records, whether required by this part or NFPA-59A-2001, must be kept for a period of not less than five years.

§ 193.2505 Cooldown.

(a)

(b) After cooldown stabilization is reached, cryogenic piping systems must be checked for leaks in areas of flanges, valves, and seals.

Cove Point LNG failed to maintain a record of results of each inspection, test and investigation required by Subpart F in accordance with § 193.2521. Specifically, Cove Point LNG failed to maintain inspection records for leak checks carried out following a trip off incident on June 14, 2022, on the main cryogenic heat exchanger in accordance with § 193.2505 and its procedures.

Cove Point LNG's procedure, SOP-020-01 (Feb. 9, 2022), requires completion of a checklist, CP0002, Piping/Equipment Cooldown Checklist, to document all cooldown leak checks. Cove Point failed to provide this record documenting a cooldown leak check after the trip off incident on June 14, 2022.

On May 05, 2011, PHMSA warned the operator about its prior failure to complete this form (CPF 1-2011-3001W).

Therefore, Cove Point LNG failed to maintain a record of results of each inspection, test and investigation required by Subpart F in accordance with § 193.2521.

2. § 193.2605 Maintenance procedures.

(a)

(b) Each operator shall follow one or more manuals of written procedures for the maintenance of each component, including any required corrosion control. The procedure must include:

(1) The details of the inspections or tests determined under paragraph (a) of this section and their frequency of performance; and

Cove Point LNG's manuals of written procedures for the maintenance of each component failed to include the details of the inspections or tests determined under § 193.2605(a) in accordance with § 193.2605(b)(1). Specifically, Cove Point LNG failed to develop procedures for the inspection and testing of high temperature detector sensors and low temperature detector sensors.

After the inspection, Cove Point LNG developed procedures to provide guidance on the inspection and testing of high temperature detector sensors and low temperature detector sensors.

Therefore, Cove Point LNG's manuals of written procedures for the maintenance of each component failed to include the details of the inspections or tests determined under § 193.2605(a) in accordance with § 193.2605(b)(1).

3. § 193.2637 Remedial measures.

Prompt corrective or remedial action must be taken whenever an operator learns by inspection or otherwise that atmospheric, external, or internal corrosion is not controlled as required by this subpart.

Cove Point LNG failed to take prompt corrective or remedial action after learning that atmospheric, external, or internal corrosion is not controlled as required by Subpart G in accordance with § 193.2637 and its procedures.¹ Specifically, Cove Point LNG failed to take prompt remedial or corrective actions at the following locations:

1. Cove Point LNG failed to take prompt correction action at T/S 109. On July 31, 2019, Cove Point LNG determined that one pipe wire and two anodes required remediation. However, Cove Point LNG did not take corrective action until after the issue was identified during the inspection, on September 28, 2022.
2. Cove Point LNG failed to take prompt correction action at T/S 30. On June 16, 2020, Cove Point LNG discovered a low CP reading. However, Cove Point LNG did not take corrective action until after the issue was identified during the inspection, on September 28, 2022.
3. Cove Point LNG failed to take prompt correction action at T/S 11. Cove Point LNG recorded low CP readings in 2021 (-0.667 mV) and 2022 (-0.683 mV). However, Cove Point LNG did not take corrective action until after the issue was identified during the inspection, on September 28, 2022.
4. Cove Point LNG failed to take prompt correction action at T/S 117. Cove Point LNG failed to include pipe to soil CP readings in 2021 and 2022. In addition, this issue was identified on a 2019 work order. However, Cove Point LNG did not take corrective action until after the issue was identified during the inspection, on September 28, 2022.

Therefore, Cove Point LNG failed to take prompt corrective or remedial action after learning that atmospheric, external, or internal corrosion is not controlled as required by Subpart G in accordance with § 193.2637.

¹ Cove Point LNG's procedures state that it must correct identified corrosion control deficiencies within 15 months, or before the next inspection, whichever is less.

4. § 193.2801 Fire Protection

Each operator must provide and maintain fire protection at LNG plants according to sections 9.1 through 9.7 and section 9.9 of NFPA-59A-2001 (incorporated by reference, *see* § 193.2013). However, LNG plants existing on March 31, 2000, need not comply with provisions on emergency shutdown systems, water delivery systems, detection systems, and personnel qualification and training until September 12, 2005.

Cove Point LNG failed to maintain fire protection at its LNG facility in accordance with NFPA-59A-2001 and § 193.2801. Specifically, Cove Point LNG failed to conduct an adequate evaluation to determine the spacing and location of fire detectors in accordance with NFPA-72-1999.

Section 9.3.4 of NFPA-59A-2001 states that “[t]he detection systems determined from the evaluation in 9.1.2 shall be designed, installed, and maintained in accordance with NFPA 72, National Fire Alarm Code, or NFPA 1221, Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems, as applicable.” Section 2-4.3.2.1 of NFPA-72-1999 states that the location and spacing of detectors shall be the result of an engineering evaluation that addresses numerous factors.²

Section 2-4.3.2.2 of NFPA-72-1999 states that the system design shall specify the flaming fire to be detected and section 2-4.3.2.3 of NFPA-72-1999 states that “[i]n applications where the fire to be detected could occur in an area not on the optical axis of the detector, the distance shall be reduced or detectors added to compensate for the angular displacement of the fire in accordance with the manufacturer’s documented instructions.”

On August 14, 2014, Cove Point LNG conducted an evaluation as required by Section 9.1.2 of NFPA-59A-2001. This evaluation determined that an additional UV/IR detector was required to provide coverage of the area by the cold gas compressors in 106H building. However, Cove Point LNG failed to install the additional detectors and failed to provide an adequate justification for deviating from the evaluation. On June 9, 2020, Cove Point LNG conducted a new evaluation. This evaluation did not recommend installation of additional detectors in the 106H building.

The 2014 and 2020 evaluations failed to consider each factor listed in section 2-4.3.2.1 of NFPA-72-1999. Further, the evaluations did not specify the size of the flaming fire to be detected and failed to determine if the fire to be detected could occur in an area not on the optical axis of the detector.

Therefore, Cove Point LNG failed to maintain fire protection at its LNG facility in accordance with NFPA-59A-2001 and § 193.2801.

² Those factors are: (1) Size of the fire that is to be detected; (2) Fuel involved; (3) Sensitivity of the detector; (4) Field of view of the detector; (5) Distance between the fire and the detector; (6) Radiant energy absorption of the atmosphere; (7) Presence of extraneous sources of radiant emissions; (8) Purpose of detection system; and (9) Response time required.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 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. For violation occurring on or after November 2, 2015, and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. Also, for each violation involving LNG facilities, an additional penalty of not more than \$87,362 occurring on or after March 21, 2022, may be imposed. For each violation involving LNG facilities, an additional penalty of not more than \$82,245 occurring on or after May 3, 2021, and before March 21, 2022, may be imposed. For each violation involving LNG facilities, an additional penalty of not more than \$81,284 occurring on or after January 11, 2021, and before May 3, 2021, may be imposed. For each violation involving LNG facilities, an additional penalty of not more than \$79,875 occurring on or after July 31, 2019, and before January 11, 2021 may be imposed. For each violation involving LNG facilities, an additional penalty of not more than \$77,910 occurring on or after November 27, 2018, and before July 31, 2019 may be imposed. For each violation involving LNG facilities occurring on or after November 2, 2015, and before November 27, 2018, an additional penalty of not more than \$76,352 may be imposed.

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.

With respect to Items 1, 2, and 4 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Cove Point LNG, LP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to Item 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 this item. 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. 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2023-033-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Cove Point LNG, LP (Cove Point LNG) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Cove point LNG with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to Cove Point LNG's failure to maintain records of cooldown leak checks, Cove Point LNG must complete and maintain records of leak checks in accordance with its procedures.
- B. In regard to Item 2 of the Notice pertaining to Cove Point LNG's failure to develop procedures for the inspection and testing of high temperature detector sensors and low temperature detector sensors, Cove Point LNG must train its personnel on the new procedures and provide the training records to the Director, Southwest Region, PHMSA within **60** days of issuance of the Final Order.
- C. In regard to Item 4 of the Notice pertaining to Cove Point LNG's failure to maintain fire protection at its LNG facility in accordance with NFPA-59A-2001, Cove Point LNG must provide adequate records or conduct an evaluation that demonstrates consideration of the size of the flaming fire to be detected, and addresses the requirements in sections 2-4.3.2.1, 2-4.3.2.2, and 2-4.3.2.3 of NFPA-72-1999 and submit the evaluation to the Director, Southwest Region, PHMSA within **60** days of issuance of the Final Order.
- D. It is requested (not mandated) that Cove Point LNG, LP 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.