



**Northeast
Utilities**

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Hopkinton LNG Corp.

VIA E-MAIL AND COURIER

March 26, 2014

Jeffrey D. Wiese
Associate Administrator, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, DC 20590

**RE: Hopkinton LNG Corp.; Petition for Reconsideration
CPF No. 1-2012-3001**

Dear Mr. Wiese:

On March 5, 2014, the Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued an Amended Final Order to Hopkinton LNG Corp. ("Hopco") in the above-referenced case. Pursuant to 49 C.F.R. § 190.243, Hopco respectfully submits the enclosed Petition for Reconsideration of the Amended Final Order.

Please note that Hopco has marked all or portions of certain exhibits to this petition as subject to protection from public release because they contain material subject to protection under Freedom of Information Act Exemption 7(F), 5 U.S.C. § 552(b)(7)(F), and are also subject to protection under the Federal Energy Regulatory Commission's regulations as Critical Energy Infrastructure Information, 18C.F.R. § 388.113. For convenience, Hopco has provided both complete and redacted copies of the exhibits along with this petition. Hopco respectfully requests that PHMSA refrain from publishing the protected portions of the exhibits to its public website and notify the Company of any public requests for this information.

Respectfully submitted,

Paul J. Zolnorsky
Vice President - NSTAR Gas Company

cc: Vanessa Allen Sutherland, Esq., Chief Counsel, PHMSA
Kristin Baldwin, Esq., Eastern Region Counsel, PHMSA
James M. Pates, Esq., Assistant Chief Counsel for Pipeline Safety
John Lynch, Esq., PHMSA Office of Chief Counsel

Enclosure: Petition for Reconsideration with Exhibits

Hopkinton LNG Corp.
CPF No. 1-2012-3001
Petition for Reconsideration
March 26, 2014

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

In the Matter of)	
)	
Hopkinton LNG Corp.,)	CPF No. 1-2012-3001
)	
Petitioner.)	

PETITION FOR RECONSIDERATION

To: Jeffrey D. Wiese
Associate Administrator for Pipeline Safety

A. INTRODUCTION

Pursuant to 49 C.F.R. § 190.243(a), Hopkinton LNG Corp. (“Hopco”) files this petition for reconsideration of Item 5 of the March 5, 2014 Amended Final Order (“Order”) assessing a civil penalty of \$32,100 for violation of 49 C.F.R. § 193.2605 with respect to Hopco’s Hopkinton, Massachusetts LNG facility (“LNG Facility”). Pursuant to § 190.243(a) this petition is timely.¹

Hopco believes that the finding of violation in Item 5 is based upon a misunderstanding of Hopco’s procedures and the evidence in the record. Hopco respectfully requests that the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) reconsider the evidence of record and withdraw the finding of violation for Item 5. Hopco appreciates the feedback that PHMSA provides during inspections of the LNG Facility and shares the agency’s goal of safe and compliant operations.

¹ 49 C.F.R. § 190.243(a) provides that petitions must be received no later than 20 days after receipt of the final order by the Respondent. The Order was first received by counsel for Hopco by e-mail from PHMSA dated March 6, 2014, resulting in a petition deadline of March 26, 2014.

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B. BRIEF STATEMENT OF THE PETITION

Hopco respectfully requests that PHMSA withdraw the findings of violation and associated civil penalty set out in Item 5 of the Order. PHMSA found that Hopco violated 49 C.F.R. § 193.2605 by failing to follow its written procedures "to ensure that thermally insulated piping is inspected under a program of scheduled maintenance."² In making this finding, PHMSA overlooked evidence in the record that demonstrates that Hopco followed its procedures by removing insulation and performing under-insulation inspections on significant amounts of LNG Facility components, including piping and vessels. Furthermore, PHMSA's finding of violation is based upon a misunderstanding of Hopco's written procedures and its practices at the Hopkinton LNG facility. Finally, Hopco's external corrosion control procedures are not inconsistent and they provide guidance sufficient for Hopco to conduct atmospheric corrosion inspections of insulated pipe.

While Hopco does not agree that a violation occurred, it has amended its written procedures at Section 3.6 consistent with the compliance order for Item 5, including revisions to under insulation inspections. Hopco has made additional revisions to Section 3.6, in other areas, including the provisions relating to pipe air-to-soil inspections.³ See **Exhibit 1**. Hopco has made these changes in support of its effort to continually improve its compliance program and procedures. In recognition that there is room for improvement and clarification in its procedures over time, Hopco requests that PHMSA convert Item 5 to a Notice of Amendment ("NOA").

² Order at 5.

³ Although the stainless steel piping at the LNG Facility is, because of low operating temperatures and other factors, not subject to atmospheric corrosion, Hopco's amended procedures provide for limited under-insulation inspection of stainless piping as a matter of good engineering practice.

C. RECONSIDERATION IS WARRANTED

1. PHMSA Did Not Consider Evidence Demonstrating that Hopco Inspected Piping Under Thermal Insulation in 2008 and Other Years.

In the Order, PHMSA based its finding of violation of 49 C.F.R. § 193.2605 on Hopco's failure "to inspect under its thermal insulation for evidence of atmospheric corrosion every three years, despite the express language contained in Section 3C of its Operator's Corrosion Procedures."⁴ To support this finding, PHMSA relied solely on a partial statement from Hopco's December 8, 2008 Atmospheric Corrosion Control Inspection report ("2008 Report") that noted "pipelines covered with insulation were not inspected."⁵ In making this finding, PHMSA did not consider relevant and probative evidence demonstrating that Hopco did, in fact, conduct inspections in 2007, 2008 and 2009 under the thermal insulation on carbon steel LNG Facility piping and other components, in accordance with its written atmospheric corrosion control procedures.⁶

While the 2008 Report indicates that thermally insulated pipelines were not inspected, that report was referring to the day when the inspection took place, in October 2008. In fact, the 2008 Report documents the removal of insulation and inspection of piping earlier that year. Specifically, the 2008 Report states:

Pipelines that are covered with thermal insulation were not inspected during this inspection however; the air receiver drain line and the #1 exhaust stack reactivation lines were both inspected on April 11, 2008. Upon review the #1 exhaust stack reactivation lines were replaced and new insulation was installed for both lines.⁷

Contrary to PHMSA's finding, the 2008 Report shows that thermally insulated pipe was, in fact, inspected in 2008 consistent with Hopco's Section 3.6 procedures.⁸

⁴ *Id.*

⁵ *Id.* at 6. The Regional Director's Written Evaluation and Recommendation ("Recommendation"), dated July 24, 2013, also relied upon this partial statement from the 2008 Report to conclude that Hopco "did not inspect or pay particular attention to the piping under thermal insulation as set forth in its procedure." Recommendation at 23-24.

⁶ Hopco's Atmospheric Corrosion Control Procedures, in place at the time of the inspection, are located in Section 3.6 of its Corrosion Control Procedures. Violation Report, Exhibit A-5.

⁷ Violation Report, Exhibit A-4, 2008 Report at 2 (emphasis added).

⁸ Both the Recommendation and Violation Report reference the 2005 atmospheric corrosion control inspection

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In addition, PHMSA did not consider the evidence that Hopco submitted as Attachment 9 to its May 30, 2012 Response (“Response”) that demonstrates that thermal insulation was removed and components were inspected for corrosion in 2007, 2008, and 2009.⁹ Likewise, the Regional Director’s Recommendation does not reference the evidence Hopco submitted as Attachment 9 to its Response, and does not appear to take that evidence into consideration.¹⁰

In April and May of 2007, Hopco removed insulation from portions of process piping and the feed gas drier beds for corrosion inspections, painting and re-insulating.¹¹ Attachment 9 includes detailed drawings and Piping and Instrumentation Diagrams (“P&IDs”) that show what piping insulation was removed and the results and follow up from inspections.¹² Likewise, Attachment 9 includes similarly detailed information on the April 2008 insulation removal and piping inspections referenced in the 2008 Report, related to the air receiver drain lines and #1 exhaust stack reactivation lines.¹³ Finally, in February and July of 2009, Hopco removed insulation from piping at the E2A tank and from fuel lines near the PCV 713 for corrosion inspection.¹⁴

The evidence demonstrates that, contrary to the conclusions in the Order, Hopco followed its written procedures by removing insulation and inspecting piping not only in 2008, but also in 2007 and 2009. Furthermore, the evidence demonstrates that, when necessary, Hopco took

report. Recommendation at 23; Violation Report at 23. Hopco notes that this report is outside the five-year statute of limitations period. Notwithstanding, even if it is relevant, the 2005 report acknowledges that Hopco inspected some insulated pipelines.

⁹ Hopco Response, Attachment 9 (May 16, 2012). For convenience, Attachment 9 is attached to this Petition as **Exhibit 2**.

¹⁰ Recommendation at 23 (“[s]ince Hopkinton did not remove any insulation and did not perform any other inspection of the insulated piping, they failed to pay particular attention to piping under thermal insulation as required by section 3.6C of their procedure”); *id.* (“Hopkinton did not have records (as required in its procedures) regarding the coating quality, existing corrosion (localized or general, good, fair or poor) to show that thermally insulated piping was inspected”). On the contrary, the evidence in Attachment 9 demonstrates that Hopco removed thermal insulation and inspected piping in 2007, 2008, and 2009, and maintained the requisite records. *See* Exhibit 2.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

appropriate remedial actions to ensure the continued safety and reliability of the piping at the LNG Facility.

2. PHMSA Overlooked Part 193 Regulations that Recognize that Atmospheric Corrosion Control can be Accomplished by Material Selection.

PHMSA states that “the regulation makes no differentiation between pipelines made with different material, stainless steel or otherwise.”¹⁵ On the contrary, 49 C.F.R. § 193.2627 only requires atmospheric corrosion control for “[e]ach exposed component that is subject to atmospheric corrosive attack.” As discussed in the Response, more than 90 percent of the thermally insulated piping at Hopco’s LNG Facility is stainless steel.¹⁶ The chromium and nickel in stainless steel provide its corrosion resistance, and in the absence of free chlorides at elevated temperatures (above 120 degrees Fahrenheit), stainless steel is impervious to corrosion. Given that there are no significant external environmental sources of chlorides at the LNG Facility, and that LNG and LNG boil-off gas piping service temperatures are typically well below zero degrees Fahrenheit, Hopco’s stainless steel piping is not subject to atmospheric corrosion. Accordingly, the stainless steel piping is not subject to the atmospheric corrosion control requirements and is therefore not required to be inspected at three year intervals pursuant to 49 C.F.R. § 193.2635(d).¹⁷

As explained in the Response, Hopco’s atmospheric corrosion control procedures are consistent with these regulatory provisions. Specifically, Section 3.6B provides that “[i]nspections shall not be required for materials that have been designed and selected to resist the corrosive atmosphere involved.” As a result, Hopco is not required by regulation or its written procedures to perform atmospheric corrosion inspections on the stainless steel piping at the LNG Facility. Because the inspection of stainless steel piping is not required, any alleged failure to inspect stainless piping under thermal insulation does not support a finding of violation for Item 5.¹⁸

¹⁵ Order at 5.

¹⁶ Response at 11.

¹⁷ 49 C.F.R. § 193.2625(b).

¹⁸ In its more than 40 year history, there has never been a stainless steel pipe leak at the LNG Facility.

3. PHMSA Misinterpreted Hopco's Written Procedures.

PHMSA asserts that there are inconsistencies in Hopco's written procedures regarding atmospheric corrosion control. Specifically, PHMSA notes that "Section 3.6C states that the components covered by thermal insulation are to be paid great attention, while Section 3.6E states that the components are only to be inspected when the insulation is removed."¹⁹ Contrary to PHMSA's characterization, these procedural provisions are not in conflict and are consistent with the applicable regulatory requirements.

For the carbon steel piping at the LNG Facility, Section 3.6C requires atmospheric corrosion inspections of exposed pipelines "at least once every three years."²⁰ Therefore, contrary to the Order, Hopco's procedures do in fact "specify a schedule establishing the frequency of inspections."²¹ Hopco's procedures do not specify that all such thermally insulated pipes be examined at every inspection, nor do they require that all thermal insulation on all piping be removed every three years. Indeed, the Order recognizes that "the regulation is silent as to the issue of whether all of the insulation must be removed for the inspection..." and, moreover, PHMSA amended the compliance order to provide flexibility to inspect a sampling of insulated pipe.²² Hopco's documented 2007, 2008 and 2009 inspections of thermally insulated carbon steel piping reflect that regulatory flexibility. Hopco has therefore inspected its piping system, a "component" under § 193.2007, in accordance with the triennial inspection requirement in Section 3.6C and the regulations.

Pursuant to Section 3.6E, Hopco inspects "piping covered by thermal insulation whenever said insulation is removed." Hopco selects insulation for removal on the basis of indications of insulation damage and through random selections. During those inspections when thermal insulation has been removed, Section 3.6C directs Hopco to give "particular attention" to those areas "under thermal insulation." Hopco submitted evidence as Attachment 9 to its Response that documents its compliance with these procedures. Specifically, of the

¹⁹ Violation Report, Exhibit A-5.

²⁰ *Id.* Section 3.6C does not mention carbon steel explicitly. However, because Section 3.6B exempts corrosion resistant materials from the inspection requirements, the application of Section 3.6C is effectively limited to carbon steel piping.

²¹ Order at 5.

²² *Id.* at 5 & 8.

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approximately 1510 feet of carbon steel piping under insulation in flammable gas and amine service at the LNG Facility, the P&IDs included with the 2007, 2008 and 2009 reports demonstrate that Hopco removed insulation and inspected approximately 327 feet of carbon steel piping in 2007, 2008, and 2009.²³ Thus, during this triennial period, Hopco inspected a sampling of approximately 20 percent of the carbon steel piping at the LNG Facility.

Hopco's atmospheric corrosion inspection procedures and practice are also consistent with the applicable regulatory requirements. Pursuant to 49 C.F.R. § 193.2605(a), operators "shall determine and perform, consistent with generally accepted engineering practice, the periodic inspections or tests needed to meet the applicable requirements of this subpart..." (emphasis added). Current industry practice does not require the removal of all insulation for inspection, but recommends that operators identify insulation that shows signs of compromise or the intrusion of water and target those areas for insulation removal.²⁴ Accordingly, based on the regulations and industry practice, operators have flexibility on when and how to inspect insulated components for external corrosion. Consistent with this approach, and as documented by the evidence submitted as Attachment 9 to its Response, Hopco conducted inspections of insulated components in 2007, 2008, and 2009 based on indications of insulation damage or random selection and took remedial measures as necessary.²⁵

4. PHMSA's Rationale for Assessment of Civil Penalty is Not Supported

Because Hopco conducted inspections in 2007, 2008, and 2009 under thermally insulated piping consistent with industry practice, its written procedures and the applicable regulations, no violation occurred, and the assessment of a civil penalty is not warranted under the application of the civil penalty assessment considerations.²⁶

The application of the "nature, circumstances, and gravity" penalty assessment consideration does not support a civil penalty for Item 5. In the Order, PHMSA states that it is

²³ See Exhibit 2.

²⁴ NACE Standard Practice 0198, *Control of Corrosion Under Thermal Insulation and Fireproofing Materials-A Systems Approach* at § 6 (2010); see also API Recommended Practice 574, *Inspection Practices for Piping System Components* at § 10.1.6 (2009).

²⁵ Hopco notes that this approach is also consistent with the direction that PHMSA provided in its amended compliance order. Order at 8.

²⁶ 49 C.F.R. § 190.225.

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assessing a civil penalty because Hopco violated 49 C.F.R § 193.2605 by “failing to inspect under all of its thermal insulation for evidence of atmospheric corrosion every three years, despite the express language contained in Section 3C of its Operator’s Corrosion Procedures.”²⁷ However, Section 3C does not require the inspection under “all” of the insulation on its thermally insulated pipelines. In addition, PHMSA explicitly states elsewhere in the Order that it “has not asserted that Hopkinton must remove all of its insulation to inspect components for atmospheric corrosion.”²⁸ Finally, in its revised compliance order, PHMSA allows Hopco to revise its Corrosion Procedures to provide for “inspections of a sampling of the pipeline under thermal insulation.”²⁹ Accordingly, because there was no requirement to inspect under “all” thermal insulation, nor is PHMSA requiring Hopco to do so in the future, the application of the nature component of this penalty assessment consideration does not support a civil penalty.

In addition, given the evidence Hopco provided in Attachment 9 to its Response, the lengthy period of violation OPS alleged for Item 5 is not warranted. In the Violation Report, PHMSA states that the alleged non-compliance started October 28, 2005, and that the duration of the alleged violation lasted 2,176 days (October 28, 2008 through October 4, 2010).³⁰ While it is not clear how PHMSA calculated the duration of the violation and the start of the alleged non-compliance pre-dates the applicable five-year statute of limitations,³¹ Hopco presented evidence documenting that it removed insulation and conducted under-insulation inspections of carbon steel components in 2007, 2008, and 2009.³² Further, as explained above, Hopco was not required to inspect the stainless steel piping comprising more than 90 percent of the thermally insulated piping at the LNG Facility. Therefore, the application of the circumstances component of this penalty assessment consideration does not support a civil penalty.

²⁷ Order at 6 (emphasis added); *see also* Violation Report at 24.

²⁸ Order at 5 (emphasis added).

²⁹ *Id.* at 8 (emphasis added).

³⁰ Violation Report at 25.

³¹ 28 U.S.C. § 2462.

³² It does not appear that the Regional Director considered this evidence when making a recommendation for the civil penalty assessment. Recommendation at 24 (“Hopkinton did not present additional evidence or materials that would warrant a reduced civil penalty.”).

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In addition, in the Order, PHMSA states that “Hopkinton’s failure to properly inspect portions of its pipeline that are thermally insulated for corrosion could have had drastic consequences.”³³ On the contrary, in Attachment 9, Hopco submitted evidence documenting that it removed insulation and conducted under-insulation inspections of approximately 20 percent of all of its carbon steel piping in 2007, 2008, and 2009. This represents a significant portion of the non-stainless steel piping at the LNG Facility and demonstrates that pipeline integrity or safe operation was not compromised. Therefore, the application of the gravity component of this penalty assessment consideration does not support a civil penalty.

The application of the “culpability” penalty assessment consideration does not support a civil penalty for Item 5. In assessing the civil penalty amount, PHMSA only considered the 2008 Report to conclude that insulated pipelines were not inspected.³⁴ However, as explained above, Hopco was not required to inspect the stainless steel piping comprising more than 90 percent of the thermally insulated piping at the LNG Facility, nor did its own procedures or the regulations require removal of all insulation on thermally insulated carbon steel piping. For the carbon steel piping, Hopco submitted evidence in its Response documenting insulation removal and under-insulation inspections in 2007, 2008, and 2009. Because PHMSA did not consider this evidence, and it demonstrates that OPS did not meet its burden of proof that a violation took place, the application of the “culpability” penalty assessment consideration does not support a civil penalty.

Finally, the application of the “good faith” penalty assessment consideration does not support a civil penalty for Item 5. The Order alleged that Hopco failed to follow its own written procedures.³⁵ On the contrary, as explained in its Response and above, Hopco did in fact follow its written corrosion control procedures by conducting insulation removal and under-insulation inspections on its carbon steel piping and components. Therefore, Hopco acted in good faith and, under this penalty assessment consideration, no civil penalty is warranted.

³³ Order at 6.

³⁴ *Id.* This conclusion is also inconsistent with the Violation Report, which states that “[t]he operator’s records state that some insulation had been removed and operator had examined for the presence of Atmospheric corrosion.” Violation Report at 27.

³⁵ *Id.* at 28; Order at 6.

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Accordingly, PHMSA has failed to demonstrate that the proposed civil penalty is warranted for Item 5. As a result, Hopco respectfully requests that the proposed civil penalty be withdrawn in its entirety.

D. PHMSA SHOULD CONVERT THE NOTICE OF PROPOSED VIOLATION TO A NOTICE OF AMENDMENT

While Hopco does not agree with PHMSA's characterizations of its procedures, under the Pipeline Safety Act and PHMSA's regulations, the appropriate enforcement mechanism to address inadequate procedures is an NOA.³⁶ In *ExxonMobil Production Co.*,³⁷ PHMSA alleged numerous violations of the integrity management regulations on the basis that the operator failed to adopt adequate procedures.³⁸ PHMSA found that 14 of the alleged violations were more appropriately addressed through a NOA and modified them accordingly.³⁹ Here, PHMSA has also alleged a violation related to written procedures. Therefore, to the extent that Hopco's procedures require improvement, Item 5 should be withdrawn and, if justified, be reissued as a NOA.⁴⁰

E. CONCLUSION

For the foregoing reasons, Hopco respectfully requests that PHMSA grant reconsideration of Item 5 of the Order by eliminating the findings of violation and the associated \$32,100 civil penalty, and converting Item 5 to a NOA, which the company believes would be satisfied by the attached procedures.

³⁶ 49 C.F.R. § 190.237; *see* 49 U.S.C. § 60108(a)(2).

³⁷ *In the Matter of ExxonMobil Production Co.*, Final Order, CPF No. 5-2005-5015, 2009 WL 2336993 (June 11, 2009).

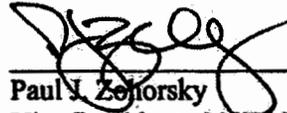
³⁸ *Id.* at *2-7.

³⁹ *Id.* at 2-7, 9.

⁴⁰ 49 C.F.R. § 190.206.

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Respectfully submitted,



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James M. Pates, Esq., Assistant Chief Counsel for Pipeline Safety
John Lynch, Esq., PHMSA Office of Chief Counsel

Exhibits