



February 18, 2020

Mary L. McDaniel, P.E.
Director, Southwest Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety
8701 S. Gessner, Suite 630
Houston, TX 77074

Via Certified Mail – Return Receipt Requested

**Re: CPF 4-2020-1002; Freeport LNG Development, L.P.
Notice of Probable Violation, Proposed Civil Penalty,
and Proposed Compliance Order (NOPV)**

Dear Ms. McDaniel:

This letter is in response to the above-referenced NOPV, dated January 27, 2020. This letter provides additional explanation and insight into portions of the alleged probable violations and proposed compliance items for further consideration by PHMSA. It also describes the modifications and actions proposed to be taken by Freeport LNG Development, L.P. (FLNG) to correct certain alleged deficiencies. FLNG respectfully requests PHMSA's consideration of the below in the development of its Final Order.

1. §192.605 Procedural manual for operations, maintenance, and emergencies.

“FLNG failed to follow, for each pipeline, a manual of written procedures for conducting operations and maintenance activities, and for emergency response. FLNG failed to provide documentation showing that annual reviews of its gas transmission pipeline system as required by FLNG-GOM-100, Gas Pipeline Operations and Maintenance Manual were performed.”

“FLNG-GOM-100, Gas Pipeline Operations and Maintenance Manual, requires annual reviews. According to FLNG, it conducted its reviews annually for the past three years; however, no documentation was provided during the inspection to document the annual review.”

“FLNG failed to use the log referred to in the procedure to document that there were no changes to the manual when the annual review was conducted. The last review date listed on the manual was 12/10/2018 is shown on each page.”



FLNG does not believe that it has failed to follow its manual's (FLNG-GOM-100) requirements with regard to documenting the annual review of the manual. During PHMSA's audit, FLNG provided an electronic history of annual procedural updates for the past 3 years. As PHMSA notes in its findings, the last review date (12/10/2018) is displayed on each page of the manual. This date is intended to document that the CY 2018 review had been completed and thus, that the CY 2019 review was not due until December 31, 2019 at the latest.

The manual does not require a log to be used to document that there were no changes to the manual when the annual review was conducted. Further, FLNG has been unable to identify a specific requirement in §192.605 that requires the use of a written log to evidence annual reviews. In lieu of requiring a log be maintained, the FLNG-GOM-100 manual states the following on Page 10 of 125 (in Subsection 3.1) with regard to documenting the revision of the manual during the time of its annual review:

The manual is divided into sections, each with a specific purpose and scope. Each page of the manual includes a header that provides important data, especially the revision number and the date on which the document was last revised. The manual is updated annually to reflect process changes, equipment changes, operational changes or other changes occurring since the last published revision.

In order to document the requirements stated in Section 192.605(a) more specifically, as well as add a requirement for a log to be maintained in order to more closely align with audit expectations, FLNG intends to revise the subparagraph of Paragraph 3.1, Subsection 3.0 (ABOUT THIS MANUAL) of SECTION 1: INTRODUCTION of FLNG-GOM-100 to state:

This O&M manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary (§192.605(a)). Each review and all changes will be documented as part of the Management of Change (MOC) process as defined in the FLNG Integrity Management Program. In addition, a separate change log associated with this O&M manual will be appropriately annotated.

2. §192.605 Procedural manual for operations, maintenance, and emergencies.

"FLNG failed to establish written procedures for the periodic review of the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance in accordance with §192.605(b)(8)."

To address this item, a second paragraph to Subsection 1.0 (PURPOSE) of SECTION 6: OPERATIONS of FLNG-GOM-100 is proposed to be added, which would state:

Work done by FLNG personnel shall be monitored on a "management-by-exception" basis by supervisors to confirm the effectiveness and adequacy of the procedures used in normal operation and maintenance. "Management-by-



exception” means that if an employee’s performance does not meet expectations, the underlying procedures should be evaluated as a possible cause of substandard employee performance. Procedures shall be modified when deficiencies are found. Such changes shall be documented using the Management of Change (MOC) process. (§192.605(b)(8))

3. §192.614 Damage prevention program.

“FLNG’s damage prevention program did not include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which its pipeline is located as required by § 192.614(c)(1). Specifically, FLNG does not incorporate the names of associated contractors or excavators from its Third-Party Activity reports into its damage prevention program so that the names are included in the mail-outs and communications with excavators along the system.”

§192.614(b) contains the following language: “An operator may comply with any of the requirements of paragraph (c) of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section.”

FLNG is an active participant in Texas 811, a qualified one-call system that meets the requirements of §192.614(b)(1). In addition, FLNG utilizes the services of a Third Party Public Awareness contractor. Both entities maintain a current list of excavators in Brazoria County and otherwise meet the requirements of §192.614(c) on behalf of FLNG. FLNG recollects that one locate ticket, for Primoris Pipeline Services, was identified during the inspection that was not on the FLNG mailing list and had previously entered a locate ticket. Given that Primoris was not included in the Texas811 list nor was it identified by FLNG’s Third Party Public Awareness contractor, Primoris may not rise to the level of “a person who normally engages in excavation activities in the area in which the pipeline is located.” Nevertheless, FLNG has provided our 3rd party Public Awareness contractor with Primoris’s name and also requested that it review the last three calendar years of FLNG’s dig tickets and perform a cross check of identified entities in order to fill any potential gaps identified.

4. §192.805 Qualification program.

“FLNG failed to ensure through evaluation that employees were qualified to perform valve inspections on eight separate occasions in 2018 and 2019.”

“During the inspection, FLNG operator qualification records of employees performing valve inspections were reviewed. Valve Inspection records showed that two FLNG employees with expired qualifications performed valve inspections on regulated valves (BV-116, V20A08, and XV4345) on its 42-inch pipeline on eight separate occasions in 2018 and 2019. At the time of the inspection, FLNG

Freeport LNG Development, L.P.

333 Clay Street, Suite 5050 • Houston, Texas 77002-4173

Phone: 713-980-2888 • Fax: 713-980-2903



failed to provide documentation indicating these two individuals were qualified while performing the covered tasks."

FLNG acknowledges the fact that valve inspection is a covered task (M19 - Inspect Valves) and that the employees failed to complete the requalification within the time period allowed for Task M19 (3 years). Their supervisor and the training department also failed to require the employees to complete the requalification prior to performing the covered task. The employees were requalified without difficulty as soon as the issue was discovered.

A violation did occur, but FLNG promptly rectified the situation and this is the first offense of this nature in the 10 year audit history of FLNG. FLNG will make every effort going forward to ensure timely requalification of employees. FLNG respectfully requests that PHMSA consider reducing the amount of assessed penalty considering the aforementioned points.

Proposed Compliance Order

"1. In regard to Item Number 2 of the Notice pertaining to establishing written procedures for the periodic review of the work done by operator personnel to determine the effectiveness, and adequacy of the processes used in normal operations and maintenance and modifying the processes when deficiencies are found, FLNG must develop written procedures and complete the periodic review and submit documentation to PHMSA's Southwest Region Director within 60 days of issuance of the Final Order."

With respect to Proposed Compliance Order Remedial Item 1, FLNG proposes that this item be addressed by the aforementioned language additions to the Freeport LNG Gas Pipeline Operations Manual (FLNG-GOM-100) (See item 2, above).

"2. In regard to Item Number 3 of the Notice pertaining to failing to ensure that the identity of persons who normally engage in excavation are identified as required FLNG must develop a written procedure and submit that procedure to PHMSA's Southwest Region Director within 60 days of issuance of the Final Order."

With respect to the procedures request in the proposed compliance order, FLNG proposes the following language be included within the "Identifying Excavators" Subsection 2.4.1 of the Freeport LNG Gas Pipeline Operations Manual:

Using available sources, including telephone or other directories, building permits, newspaper articles, personnel contact, etc., Freeport LNG shall compile a list of service providers or other parties that engage in excavation of public alleys, streets or other rights-of-way within Brazoria County. Those to be considered shall include:

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- Building Contractors
- County Road and Bridge Department
- Dirt Contractors
- Ditching Contractors
- Electric Power and Light Company
- Pipe Line Companies
- Pipe Line Contractors
- Plumbers
- Pole Line Contractors
- Sewer Contractors
- Telephone Companies
- Television Cable Companies

This list shall be updated annually and incorporated into Freeport LNG's Public Awareness / Damage Prevention programs as appropriate in order to maintain a current account of persons or entities who normally engage in excavation activities.

Closing

FLNG would appreciate your consideration of the above points in making your findings and issuing the Final Order as it respects the proposed civil penalty and proposed compliance order. Should you have any questions or comments, please contact Michael Stephenson, Regulatory Compliance Manager (phone: (979) 415-8728, email: mstephenson@freeportlng.com) and FLNG will work to find an acceptable path forward.

Thank you for your cooperation and consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Mallett".

Mark W. Mallett, P.E.

cc: Michael Stephenson