

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

February 10, 2022

Pedro Cherry
President and Chief Executive Officer
Chattanooga Gas Company
10 Peachtree Place NE
Atlanta, Georgia 30309

CPF 4-2022-025-NOPV

Dear Mr. Cherry:

From June 14, 2021 through July 8, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Chattanooga Gas Company's (CHLNG) Peak Shaving Liquefied Natural Gas (LNG) facility located in Hamilton County, Tennessee.

Based on the inspection, it is alleged that CHLNG has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. § 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.

NFPA-59A Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG) 2001 Edition

Chapter 9 Fire Protection, Safety, and Security

9.1 General

9.1.1 . . .

9.1.2 Fire protection shall be provided for all LNG facilities. The extent of such protection shall be determined by an evaluation based on sound fire protection engineering principles, analysis of local conditions, hazards within the facility, and exposure to or from other property. The evaluation shall determine the following, as a minimum:

(1) . . .

(3) The methods necessary for protection of the equipment and structures from the effects of fire exposure

(4) Fire protection water systems

9.1.3 . . .

9.4 Fire Protection Water Systems.

9.4.1 A water supply and a system for distributing and applying water shall be provided for protection of exposures; for cooling containers, equipment, and piping; and for controlling unignited leaks and spills.

Exception: Where an evaluation in accordance with 9.1.2 indicates the use of water is unnecessary or impractical.

9.4.2 The design of fire water supply and distribution systems, if provided, shall provide for the simultaneous supply of those fixed fire protection systems, including monitor nozzles, at their design flow and pressure, involved in the maximum single incident expected in the plant plus an allowance of 1000 gpm (63 L/sec) for hand hose streams for not less than 2 hours.

CHLNG failed to perform an adequate fire protection evaluation and design an adequate fire water supply system in accordance with *NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG), 2001 Edition*. First, CHLNG's fire protection evaluation did not follow *NFPA 59A (2001 Edition), Section 9.1.2* in that it did not include all hazards within the facility. Second, by not including all hazards, CHLNG failed to design an adequate fire water supply and distribution system at its Hamilton County, Tennessee Peak Shaving LNG facility in accordance with *NFPA 59A (2001 Edition), Section 9.4 Fire Protection Water Systems*.

During the inspection, PHMSA's inspector reviewed CHLNG's fire protection evaluation required by *NFPA 59A (2001 Edition), Section 9.1.2*. CHLNG's *NFPA 59A - Fire Hazard Assessment Report, Chattanooga LNG* (Finalized: 4/3/2018) was performed by a third-party company, Orcus Fire Protection LLC and relied on process condition information provided by CHLNG as noted in the report. Per *NFPA 59A (2001 Edition), Section 9.4.1*, "A water supply and a system for distributing and applying water shall be provided for protection of exposures; for cooling containers, equipment, and piping; and for controlling unignited leaks and spills." The Report states, "the analyses presented in this report are not related to any risk-based gas dispersion or radiant heat modeling, and [are] purely based on the process condition information provided by [CHLNG]."

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, Chattanooga Gas Company is subject to a civil penalty not to 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 violations 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 violations 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 violations 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 violations 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, and additional penalty of not more than \$82,245 occurring on or after May 3, 2021, 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 **Item 1**, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Chattanooga Gas Company. 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 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 4-2022-025-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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

cc: Ralph T McCollum, P.E., Lead Compliance Engineer, Southern Gas Company,
rmccollu@southernco.com
Andrew Kohout, P.E., Director, Division of LNG Facility Reviews and Inspections,
Office of Energy Projects, Federal Energy Regulatory Commission,
andrew.kohout@ferc.gov

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Chattanooga Gas Company (CHLNG) a Compliance Order incorporating the following remedial requirements to ensure compliance with the pipeline safety regulations:

- A. In regard to **Item 1** of the Notice pertaining to CHLNG's failure to provide and maintain fire protection in accordance with Sections 9.1 through 9.7 and Section 9.9 of *NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG), 2001 Edition*, CHLNG must perform an evaluation in accordance with *NFPA 59A (2001 Edition), Sections 9.1.2 and 9.4.1*. CHLNG must complete the evaluation within **60 days** after receipt of a Final Order.
- B. In regard **Item A** of this Compliance Order, CHLNG must complete all improvements resulting from design or evaluations within **120 days** of the completion of the evaluation and provide documentation to Mary L McDaniel, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration after receipt of a Final Order.

It is requested (not mandated) that CHLNG maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L McDaniel, P.E., 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.