



July 31, 2024

VIA ELECTRONIC MAIL

Pipeline and Hazardous Materials Safety Administration
Attn: Gregory Alan Ochs
Director, Central Region, Office of Pipeline Safety
901 Locust Street, Suite 480
Kansas City, MO 64106

Sent via email to Gregory.Ochs@dot.gov

Subject: CPF 3-2024-049-NOPV Request for a Hearing and Statement of Issues

Dear Mr. Ochs:

Ferrellgas, LP (“Ferrellgas” or the “Company”) submits this response to the Notice of Potential Violation (“NOPV”) referenced above to contest the allegations within and request a hearing in accordance with 49 C.F.R. §§ 190.208(a)(4) and 211. Additionally, the Company would like to request the complete Pipeline and Hazardous Materials Safety Administration (“PHMSA”) file for this matter pursuant to 49 CFR § 190.209, including the Pipeline Safety Violation Report, penalty calculation worksheets, and photographs taken during the inspection. Ferrellgas will be represented by counsel at the hearing.

Ferrellgas would also appreciate an opportunity for an informal settlement conference to discuss why the Company is challenging the NOPV to see if we can come to a mutual resolution regarding the issues laid out below.

NOPV Item 1

PHMSA alleges that “Ferrellgas failed to meet the requirements of NFPA-58 (2008) (incorporated by reference) for each pipeline system that transports petroleum gas as required by § 192.11(b)” and specifically “failed to duplicate information contained on a nameplate in a clearly visible location.” Ferrellgas does not contest the Warning Item 1 and would like to inform PHMSA that the tanks, including the nameplates, identified at the Heritage Lake System were replaced on July 26, 2024. Thus, Ferrellgas has corrected the alleged violation.

NOPV Item 2

PHMSA alleges that “Ferrellgas failed to have a leakage control program determined by the nature of the operations, per the requirements of § 192.723(b)” because a leak survey “was only an above ground survey utilizing a hydrogen flame ionization (FI) gas detector.”



Ferrellgas contests alleged violation NOPV Item 2 and the associated Proposed Compliance Order action item A in their entirety. The Company has chosen FI gas detection for the systems with purpose because it is the best technology for quickly identifying leaks over large areas and is widely used and accepted across the propane industry. If leaks are identified by FI, which also detects other volatile compounds within the propane (e.g., methane and ethane), a Combustible Gas Indicator (CGI) is then used to pinpoint and grade the leaks, which is exactly what the April 2017 PHMSA Guidance for Small LPG Operators that PHMSA cites in the NOPV recommends. As additional support for Ferrellgas' chosen leak survey methodology, please see the attached letter, *Advantages to Using HFI Technology for Leak Survey on Propane Distribution Systems*.

Because Ferrellgas has a leakage control program determined by the nature of the operations in accordance with 49 C.F.R. § 192.723(b), Ferrellgas requests that PHMSA dismiss alleged violation NOPV Item 2 and the associated Proposed Compliance Order action item A.

NOPV Item 3

PHMSA alleges that "Ferrellgas failed to retain prior qualification records for a period of five years, per the requirements of § 192.807(b)." Ferrellgas contests alleged violation NOPV Item 3 and the associated penalty amount in their entirety. The employee at issue was trained annually including in 2019 and their training records are available for 2020, 2021, 2022, and 2023. The lack of a single year's training record resulted in a \$26,000 penalty, which Ferrellgas feels is excessive for a paperwork error.

Under its regulations, PHMSA is required to consider the factors in 49 C.F.R. § 190.225(a) to determine the penalty amount, which include: (1) the nature, circumstances and gravity of the violation, including adverse impact on the environment; (2) history of prior offenses; and (3) any good faith in attempting to achieve compliance. In this case, (1) the gravity is low because there was no risk to pipeline safety or the environment; (2) this is not a repeated violation; and (3) Ferrellgas was in compliance with the training requirements, but simply misplaced the record. Accordingly, Ferrellgas requests that PHMSA dismiss alleged violation NOPV Item 3 and the associated penalty amount.

NOPV Item 4

PHMSA alleges that "Ferrellgas did not conduct periodic re-evaluations as required by § 192.1007(f)." Ferrellgas does not contest alleged violation NOPV Item 4; however, would like to request amendment of the associated Proposed Compliance Order action item B to allow for 180 days from receipt of a Final Order to correct the allegation.



Please contact me at (215) 356-1975 or michellemaggi@ferrellgas.com to arrange a time that we may meet to discuss settlement of this matter.

Best regards,

/s/Michelle Bimson Maggi

Michelle Bimson Maggi
VP Corporate Affairs
Ferrellgas, LP

Enclosure

Cc: Daniella Donaldson (PHMSA) via email to d.donaldson.ctr@dot.gov