

## WARNING LETTER

VIA ELECTRONIC MAIL TO: [Luis.Sierra@novachem.com](mailto:Luis.Sierra@novachem.com) and [Arnel.Santos@novachem.com](mailto:Arnel.Santos@novachem.com)

December 9, 2020

Mr. Luis Sierra  
President and CEO  
NOVA Chemical (Canada), Ltd.  
1000 7<sup>th</sup> Ave. S.W.  
P.O. Box 2518  
Calgary, Alberta Canada T2P 5C6

CPF 3-2020-5032W

Dear Mr. Sierra:

On July 12 -18, 2019 a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected NOVA Chemicals (Canada), Ltd. procedures, records and field assets in Marysville, MI.

As a result of the inspection, it is alleged that you have committed probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item(s) inspected and the probable violation(s) are:

**1. 195.507 Recordkeeping.**

**Each operator shall maintain records that demonstrate compliance with this subpart.**

**(a) Qualification records shall include:**

- (1) Identification of qualified individual(s);**
- (2) Identification of the covered tasks the individual is qualified to perform;**
- (3) Date(s) of current qualification; and**
- (4) Qualification method(s);**

**(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covers tasks shall be retained for a period of five years.**

**(c) Protected Pipelines. You must do the following to determine whether cathodic protection, required by the subpart complies with §195.571:**

NOVA failed to follow their OQ plan in assessing their controllers in knowledge, skills and awareness of Abnormal Operating Conditions (AOC) for the three tasks defined for controllers in their OQ plan (Tasks 43.3, 43.4 and 63.4). As a result, NOVA failed to produce records that documented qualifications for the controllers. NOVA indicated they believed they met the requirement because this training and qualification process was imbedded in their TIP process, which is their comprehensive training program.

An internal review and comparison of the NOVA OQ program and TIP plan for controllers resulted in NOVA discovering that their TIPS process did not meet the OQ plan requirements to demonstrate knowledge, skill and awareness of (AOC) in a manner that could be documented.

During the course of the inspection, NOVA amended their qualification process and documentation. They performed requalification of all controllers with the new process and documentation. No further action is required.

**2. 195.573 What must I do to monitor external corrosion control?**

**(a) Protected Pipelines. You must do the following to determine whether cathodic protection, required by this subpart complies with 195.571:**

- (1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every other calendar years, but with intervals not exceeding 39 months.**

NOVA failed to perform a cathodic protection (CP) PS test at Sta 2+82 in 2017. The 2017 inspection reading for station 2+82 CP reading was not recorded on the 2017 annual CP survey document on pipeline 20-12inch. In a follow up with the contractor, who performed the study, they indicated they were not able to find the test point, but in 2018 the point was located and the reading was obtained. The readings in 2016 and 2018 met criteria.

**3. 195.583 What must I do to monitor atmospheric corrosion control?**

- (a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows: Onshore – at least once every 3 calendar years, but with intervals no exceeding 39 months.**

NOVA failed to perform atmospheric corrosion inspections on Line 16A in the DCP yard in 2016, the year of the required inspection frequency. Upon a change in personnel responsible for this inspection, NOVA indicated that the requirement for this inspection was not made available in the atmospheric corrosion preventative maintenance tracker, therefore the inspection was not completed.

An internal review and comparison of the NOVA OQ program and TIP plan for controllers resulted in NOVA discovering that their TIPS process did not meet the OQ plan requirements to demonstrate knowledge, skill and awareness of (AOC) in a manner that could be documented.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF-3-2020-5032W**. 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).

Sincerely,

Gregory A. Ochs  
Director, Central Region, OPS  
Pipeline and Hazardous Materials Safety Administration