

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

September 14, 2021

Mr. Ronald Kraemer
President/CEO
National Fuel Gas Supply Corp
6363 Main Street
Williamsville, NY 14221

CPF 1-2021-061-WL

Dear Mr. Kraemer:

From June 23, 2020 to April 12, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) and inspectors from New York Department of Public Service (NY DPS) acting as agent of PHMSA, pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected National Fuel Gas Supply Corp's (National Fuel) records of facilities in New York.

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

1. **§ 191.5 Immediate notice of certain incidents.**
 - (a) **At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in §191.3¹.**

National Fuel failed to give notice at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery of an incident. Specifically, National Fuel failed to give immediate notice of a 11/28/2018 incident at Station EVE 47 on Line RM32/Ferrier Road Station.

During the inspection, the NY inspector reviewed *Incident Report – Gas Transmission and Gathering Pipeline Systems No. 20180134-31360, original report date 12-20-2018* (Incident Report). The Incident Report indicated that on 11/22/2018 21:23 local time, an incident occurred at Station EVE 47 on Line RM32 / Ferrier Rd Station. An equipment failure resulted in 5,300 thousand cubic feet (MCF) of natural gas unintentionally released (per §191.3 definition of incident (1)(3)). The Incident Report indicated that National Fuel confirmed the incident on 11/22/2018 21:59 and gave notice to the National Response Center on 11/28/2018 11:29. National Fuel exceeded the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, by approximately 7 days and 14 hours.

Therefore, National Fuel failed to give timely notice in accordance with § 191.5(b)² of the 11/22/2018 incident at Station EVE 47.

2. § 192.465 External corrosion control: Monitoring.

(a)...

(b) Cathodic protection rectifiers and impressed current power sources must be periodically inspected as follows:

(1) Each cathodic protection rectifier or impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months between inspections, to ensure adequate amperage and voltage levels needed to provide cathodic protection are maintained. This may be done either through remote measurement or through an onsite inspection of the rectifier.

National Fuel failed to inspect each cathodic protection rectifier or impressed current power source six times each calendar year, but with intervals not exceeding 2½ months between inspections, to ensure adequate amperage and voltage levels needed to provide cathodic protection are maintained. Specifically, cathodic protection rectifier 88139 was inspected twice at intervals exceeding 2½ months.

During the inspection, the NY inspector reviewed National Fuel's inspection history record of *Corrosion Device ID 88139*. The record indicated that rectifier 88139 was inspected on 3/14/2016 and not again until 6/6/2016. The record also indicated that rectifier 88139 was inspected on 5/7/2018 and not again until 7/24/2018. In both instances, the timeframe between inspections exceeded 2½ months by 8 days and 2 days respectively.

Therefore, National Fuel failed to inspect each cathodic protection rectifier six times each calendar year, but with intervals not exceeding 2½ months.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are 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 violation 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 violation 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 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.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the items identified in this letter. Failure to do so will result in National Fuel Gas Supply Corp being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 1-2021-061-WL**. 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,

Robert Burrough
Director, Eastern Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

¹ §191.3 Definitions.

Incident means any of the following events:

(1) An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility (UNGSTF), liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

- (i) A death, or personal injury necessitating in-patient hospitalization;
- (ii) Estimated property damage of \$122,000 or more, including loss to the operator and others, or both, but excluding the cost of gas lost. For adjustments for inflation observed in calendar year 2021 onwards, changes to the reporting threshold will be posted on PHMSA's website. These changes will be determined in accordance with the procedures in appendix A to part 191.
- (iii) Unintentional estimated gas loss of three million cubic feet or more.

² § 191.5 Immediate notice of certain incidents.

(b) Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202 267-2675) or electronically at <http://www.nrc.uscg.mil> and must include the following information:

- (1) Names of operator and person making report and their telephone numbers.
- (2) The location of the incident.
- (3) The time of the incident.
- (4) The number of fatalities and personal injuries, if any.
- (5) All other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages.