

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

February 2, 2023

Ms. Catherine Conlow
City Manager
City of Bangor
287 Godfrey Boulevard
Bangor, Maine 04401

CPF 1-2023-009-WL

Dear Ms. Conlow:

From August 22 to 25, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected City of Bangor's pipeline system in Bangor, Maine.

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 items inspected and the probable violations are:

1. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

City of Bangor failed to follow its *Operations & Maintenance Manual*, dated 11-01-2015 (O&M)

regarding abnormal operations response effectiveness reviews pursuant to § 195.402(d)(5)¹.

City of Bangor's O&M procedure Periodically Review Personnel Response of Abnormal Operations – 195.402(d)(5) stated in Section 6.1 "Personnel in charge of facility operations shall have their work performance reviewed once per calendar year, but at intervals not to exceed a (sic) 15 months."

During the inspection, PHMSA requested annual records of effectiveness reviews for abnormal operations responses for calendar years 2019, 2020, and 2021. City of Bangor was unable to provide any records for this timeframe to demonstrate that it met its procedural requirement.

Therefore, City of Bangor failed to follow its written procedures regarding performing effectiveness studies for abnormal operations responses during the calendar years of 2019, 2020, and 2021 pursuant to § 195.402(a) and § 195.402(d)(5).

2. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

City of Bangor failed to review its *Operations & Maintenance Manual*, dated 11-01-2015 (O&M) at intervals not exceeding 15 months, but at least once each calendar year and make appropriate changes to ensure it is effective, in accordance with § 195.402(a).

During the inspection, PHMSA requested the annual review records for the O&M for calendar years 2019, 2020 and 2021. City of Bangor was unable to provide any annual review records to demonstrate it met the code requirement.

Therefore, City of Bangor failed to conduct annual reviews of their O&M during calendar years 2019, 2020, and 2021 in accordance with § 195.402(a).

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

(a) ...

(d) *Abnormal operation.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:

(1) ...

(5) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

3. **§ 195.404 Maps and records.**

(a) ...

(b) **Each operator shall maintain for at least 3 years daily operating records that indicate –**

(1) ...

(2) **Any emergency or abnormal operation to which the procedures under §195.402 apply.**

City of Bangor failed to maintain records for the years of 2019 - 2021 regarding abnormal operations in accordance with § 195.404(b)(2).

During the inspection, PHMSA requested records regarding abnormal operations for calendar years 2019, 2020, and 2021. City of Bangor was unable to provide 2019, 2020, 2021 abnormal operations records. City of Bangor discussed that they did respond to abnormal operations during this timeframe, but they have no records to show they have completed this requirement.

Therefore, City of Bangor to maintain records regarding abnormal operations in accordance with § 195.404(b)(2).

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022, and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not 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 City of Bangor 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 1-2023-009-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