

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 2, 2011

Mr. Steve Fly
Vice President of Land
Nippon Oil Exploration USA, Ltd.
5847 San Felipe Road, Suite 2800
Houston, TX 77057

CPF 4-2011-7001

Dear Mr. Fly:

In April, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Offshore Liquid pipeline system, PHMSA Unit No: 7604, located in Cameron, LA. Subsequent to that on site visit PHMSA continued its inspection and sent Nippon a Request for Specific information (RFI) dated December 17, 2010. We received your response dated January 25, 2011.

As a result of the inspection and Nippon's response to the RFI, it appears that you may have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) 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 commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Nippon exceeded the 15 month interval between consecutive review periods in 2008 and 2009 for the Operation Maintenance and Emergency Manual (OME).

Nippon's OME manual version dated 10/2006, "Policy and Procedures, Introduction, section Plan Revision and Review", page 5, states:

This manual must be reviewed at least once per calendar year not to exceed 15 months by the Operation Manager or his designee, to ensure procedures continue to be met'.

The section "Review and Revision Log", page 6 states:

The Operation Manager or his designee will review the manual ... Record reviews and revisions made to this manual should be noted on the form below ...

The OME manual version dated 9/29/2009, section 2 "Plan Review, subsection 2.1 Manual Review", page 2-1, states:

This plan will be evaluated for effectiveness every year (not to exceed 15 months) ... Pipeline Safety Manual reviews and revisions will be noted on Form 20.2'.

In response to a Request for Specific Information, Nippon provided the *Review and Revision Log* that verified that OME manual reviews were performed 10/2006, 5/2007 and 2/2008 (no specific day was provided for each review). Nippon stated the movement from the past OME manual (version 10/2006) to the new OME manual (version 9/29/2009) served as a review in the calendar year 2009 although no Form 20.2 was provided. No record was provided by Nippon to verify that a review of the OME manual has been conducted following 9/29/2009. There are 19 months between the last review in 2/2008 and the use of the new OME manual on 9/29/2009.

Nippon exceeded the 15 month interval between consecutive review periods in 2008 and 2009 for the Operator Qualification Program (OQP).

NIPPON's OQP version 7/2006, "Policies and Procedures, Introduction, section Plan Revision & Review", page 5, states:

The DOT Administrator, or his/her designee, will review the Operator Qualification Program and work history performance on an annual basis (not to exceed 15 months between reviews). This review will be conducted in conjunction with the annual review of the Operations, Maintenance and Emergency Manual'.

The OQP version 9/29/2009, section 2 "Plan Review", section 2.1 Plan Review, page 2-1, states:

This plan will be reviewed & evaluated for effectiveness once every year by the Operations Manager ... Operator Qualification Plan reviews and revisions will be noted on Form 16.1.

In response to a Request for Specific Information letter, Nippon provided the *Review and Revision Log* and *Form 16.1*. The Review and Revision Log verified that OQP reviews were performed 10/2006, 5/2007, and 2/2008 (no specific day was provided for each review). The Form 16.1 verified that OQP reviews were performed 9/29/2009 and 9/1/2010. Prior to 9/29/2009, Nippon operated under the OQP version 7/2006. There are 19 months between the last review in 2/2008 and the use of the new OQP on 9/29/2009.

2. §195.404 Maps and Records.

- (a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information;**
 - (3) The maximum operating pressure of each pipeline.**

Nippon had the incorrect MOP (denoted as MAOP) for the pipelines documented on the MMS Compliance Inspection Report dated March 7, 2010. The pipelines are the WC20 6 inch and 8 inch pipelines.

In May 2009, Nippon performed hydrostatic pressure tests on the WC20 6 inch and 8 inch pipelines. The minimum test pressure on the 6 inch pipeline for the first 4 hours of the test was 985 psig and 925 psig for an additional 4 hours of testing. The pressure test on the 6 inch pipeline established an MOP of 788 psig. The minimum test pressure on the 8 inch pipeline for the first 4 hours of the test was 1200 psig and 1200 psig for an additional 4 hours of testing. The pressure test on the 8 inch pipeline established an MOP of 960 psig. The maintenance records denote MAOP's (MOP's) of 800 psig and 999 psig for the 6 inch and 8 inch pipelines respectively.

3. §195.406 Maximum operating pressure.

- (a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:**
 - (3) Eighty percent of the test pressure for any part of the pipeline which has been pressure tested under Subpart E of this part.**

Nippon operated the WC20 8 inch pipeline on six occasions in April 2010 at pressures exceeding the established Maximum Operating Pressure (MOP).

The WC20 8 inch pipeline was subjected to a Part 195 Subpart E hydrostatic pressure test as part of the requirements for conversion to service under Part 195. The hydrotest was conducted by Greene's Energy Group out of Lafayette, LA on May 29, 2009. The documentation provided by

Nippon demonstrates the test pressure began at midnight with 1250 psig and at 2:30 AM had dropped to 1200 psig. The pressure of 1200 psig was held until 8:15 AM. Per 195.304, the minimum test pressure for the first 4 hours and the last 4 hours of the test was 1200 psig. The hydrostatic pressure test established an MOP of 960 psig. Nippon personnel thought the 1250 psig at the start of the pressure test established an MOP of 999 psig.

In response to a Request for Specific Information, Nippon provided the 'West Cameron 20 Daily Operating Records' for the WC20 8 inch pipeline from start of operation on 10/1/2009 through 4/30/2010. The record only shows a single daily pressure and temperature for the 8 inch pipeline. Nippon did not provide pressure charts or hourly pressure break down. The pressure log revealed that the WC20 8 inch pipeline pressure exceeded the MOP 6 days in April 2010. These are:

April 11, 2010	962 psig	April 12, 2010	971 psig
April 13, 2010	962 psig		

During the inspection on April 14, 2010, PHMSA inspector noted the WC20 8 inch pipeline operating at 968 psig. Nippon was cautioned at that time not to exceed the MOP of 960 psig.

Again, in Nippon's response to PHMSA the record indicates they exceeded their MOP three more times:

April 28, 2010	970 psig	April 28, 2010	961 psig
April 29, 2010	972 psig		

In May 2010, approximately 3000 feet each of the WC20 6 inch and 8 inch pipelines were replaced by method, Hydraulic Directional Drill (HDD), due to exposure in the Gulf of Mexico at the shoreline. The 6 inch and 8 inch pipelines were re-tested on 5/31/2010 and 5/31-6/1/2010 respectively to establish new MOP's for each pipeline. The newly established 6 inch pipeline MOP is 853 psig. The newly established 8 inch pipeline MOP is 1758 psig.

On October 4, 2010, Nippon sold the WC20 6 inch pipeline, WC20 8 inch pipeline, and the SA13 8 inch to Black Elk Energy Offshore Operations, LLC headquartered in Houston, TX.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$17,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
3	\$17,800

Warning Items

With respect to item(s) 1 and 2, 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 promptly correct these item(s). Be advised that failure to do so may result in Nippon Oil Exploration USA, Ltd. being subject to additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance 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). 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.

In your correspondence on this matter, please refer to **CPF 4-2011-7001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous
Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*