

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

**CERTIFIED - RETURN RECEIPT REQUESTED**

February 16, 2011

Mr. Tim Heilig  
Vice President of Mechanical Operations  
Norfolk Southern Corporation  
1200 Peachtree Street NE (Box 184)  
Atlanta, GA 30309

**CPF No. 2-2011-6003**

Dear Mr. Heilig:

On December 13 - 14, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) inspected the Norfolk Southern Corporation (NSC) pipeline system in Macon, Georgia, pursuant to 49 United States Code (USC), Chapter 601.

As a result of the inspection, it appears you have committed probable violations of the pipeline safety regulations in Title 49 of the Code of Federal Regulations. The items inspected and the probable violations are:

1. **§195.402 Procedural manual for operations, maintenance, and emergencies.**  
.... (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**  
.... (4) **Determining which pipeline facilities are located in areas that would require an immediate response by the operator to prevent hazards to the public if the facilities failed or malfunctioned.**

Norfolk Southern (NSC) did not follow its written procedural manual for operations, maintenance, and emergencies because NSC did not determine which pipeline facilities on its pipeline system are located within areas which would require an immediate response to prevent hazards to the public if the facilities failed or malfunctioned.

On Page 7 of NSC's written operations and maintenance (O&M) manual<sup>1</sup> it states, "This Section requires operators to determine which pipeline facilities/segments are located within areas that would require an immediate response by the operator to prevent hazards to the public in the event the facilities failed or malfunctioned." However, NSC did not identify such facilities or segments along its pipeline system.

2. **§195.402 Procedural manual for operations, maintenance, and emergencies.**  
.... (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

.... (12) **Establishing and maintaining liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid or carbon dioxide pipeline emergency and acquaint the officials with the operator's ability in responding to a hazardous liquid or carbon dioxide pipeline emergency and means of communication.**

NSC did not establish and maintain liaison with fire, police, and other public officials that may respond to an emergency on NSC's pipeline. When queried by the PHMSA inspector on how NSC had established and maintained liaison with these emergency responders, NSC personnel stated that meetings were conducted with fire department personnel for the railroad yard but the pipeline was not addressed.

3. **§195.402 Procedural manual for operations, maintenance, and emergencies.**  
.... (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

.... (13) **Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.**

NSC did not periodically review the work done by its personnel to determine the effectiveness of the procedures used in normal operations and maintenance. When queried by the PHMSA inspector on how NSC had reviewed the work done by its personnel to determine the effectiveness of NSC's procedures, NSC personnel could not explain how or when this had been done. Moreover, NSC did not have procedures in its O&M manual for conducting such reviews.

4. **§195.403 Emergency response training.**  
(a) **Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:**  
(1) **Carry out the emergency procedures established under §195.402 that relate to their assignments;**  
(2) **Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;**  
(3) **Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquid or carbon**

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<sup>1</sup> All references to NSC's O&M manual in this document refer to the Norfolk Southern Railroad Company, Procedural Manual for Operation, Maintenance, and Emergencies, Brosnan Yard Pipeline, December 2010

**dioxide spills, and to take appropriate corrective action;**

**(4) Take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and**

**(5) Learn the potential causes, types, sizes, and consequences of fire and the appropriate use of portable fire extinguishers and other on-site fire control equipment, involving, where feasible, a simulated pipeline emergency condition.**

NSC did not establish and conduct a training program to instruct its personnel on how to respond to an emergency on its pipeline. Moreover, NSC did not have records or any other documentation to show that its personnel had been trained in responding to an emergency on its pipeline.

**5. §195.440 Public awareness.**

**(a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §195.3).**

**(i) The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies.**

NSC has established a *Public Awareness Program Plan for Hazardous Liquid Pipeline System* to comply with the public awareness regulatory requirements. However, NSC did not implement its public awareness program. Also, NSC had no records or other documentation to show that its public awareness program had been implemented.

**6. §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:**

**.... (2) Identify not more than 2 years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 (incorporated by reference, see § 195.3).**

NSC did not identify when a close-interval survey or comparable technology was or was not practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169. Additionally, NSC's O&M manual did not address or contain procedures for determining the circumstances when a close-interval survey or comparable technology was or was not practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169.

**7. §195.589 What corrosion control information do I have to maintain?**

**.... (c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.**

NSC failed to maintain records of the inspection for atmospheric corrosion of each portion of its pipeline that is exposed to the atmosphere. Atmospheric corrosion inspections are required at least once every 3 calendar years, but with intervals not exceeding 39 months in accordance with §195.583.

**8. §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.**

NSC's current records for the maximum operating pressure (MOP) of its pipeline were inconsistent and unclear. In one place in NSC's records the MOP is listed as 265 psig; in another place the MOP is listed as 450 psig.

In *Table 1-1 - Technical Specifications, Macon Pipeline* of NSC's *Pipeline Integrity Management Program, Revision 5, November 2009*, the MOP of the pipeline is identified as 265 psig. Also, NSC hydrostatically pressure tested the pipeline to 374 psig on August 31, 2006, as part of its integrity management program. This 374 psig test pressure could validate 265 psig as the MOP but not 450 psig. Moreover, at the time of the PHMSA inspection NSC personnel stated that the MOP of the pipeline was 265 psig.

However, the records were inconsistent and unclear because the pipeline MOP is listed as 450 psig (not 265 psig) in *Maximum Operating Pressure (195.406)* subsection of NSC's O&M manual, which lists 265 psig as the "normal operating pressure."

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 \$126,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 10,400
2	\$ 25,400
4	\$ 29,100
5	\$ 29,100
6	\$ 14,100
8	\$ 17,900

Warning Items

With respect to items 3 and 7 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 items. Be advised that failure to do so may result in Norfolk Southern Corporation being subject to additional enforcement action.

### Proposed Compliance Order

With respect to items 1, 2, 4, 5, 6, and 8 the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Norfolk Southern Corporation pursuant to 49 United States Code § 60118. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

### 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 2-2011-6003** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Wayne T. Lemoi  
Director, Office of Pipeline Safety  
PHMSA Southern Region

cc: Compliance Registry, PHMSA Headquarters

Enclosures: *Proposed Compliance Order*  
*Response Options for Pipeline Operators in Compliance Proceedings*

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Norfolk Southern Corporation (NSC) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Norfolk Southern Corporation with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to the failure of NSC to determine which pipeline facilities are located in areas which would require an immediate response to prevent hazards to the public if the facilities failed or malfunctioned, NSC must review its pipeline facilities and determine which pipeline facilities are located in areas which would require an immediate response to prevent hazards to the public if the facilities failed or malfunctioned. Such facilities must be clearly identified in NSC's records and/or its O&M manual.
2. In regard to Item Number 2 of the Notice pertaining to the failure of NSC to establish and maintain liaison with fire, police, and other public officials that may respond to a pipeline emergency on NSC's pipeline, NSC must establish and maintain liaison with fire police, and other public officials to learn the responsibility and resources of each government organization that may respond to a pipeline emergency. NSC must also acquaint all these officials with NSC's ability to respond to a pipeline emergency and with its means of communication.
3. In regard to Item Number 4 of the Notice pertaining to the failure of NSC to establish and conduct an emergency response training program, NSC must establish and conduct an emergency response training program for its emergency response personnel.
4. In regard to Item Number 5 of the Notice pertaining to the failure of NSC to implement its Public Awareness Program (PAP), NSC must implement its PAP and maintain documentation of the program implementation.
5. In regard to Item Number 6 of the Notice pertaining to the failure of NSC to identify when a close-interval survey or comparable technology was or was not practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169, NSC must identify when a close-interval survey or comparable technology is or is not practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169.
6. In regard to Item Number 8 of the Notice pertaining to the failure of NSC to maintain a record of the correct maximum operating pressure (MOP) for the pipeline, NSC must determine and document the MOP of the pipeline and ensure that it is consistently recorded in NSC's manuals, procedures, and records.
7. NSC must provide written documentation to the Director, PHMSA Southern Region, that Compliance Order Items 1, 2, 4, and 6 have been completed within 60 days following your receipt of the Final Order. NSC must make the documentation required under Compliance Order Items 3 and 5 available for inspection by PHMSA representatives within 120 days following your receipt of the Final Order.
8. NSC must maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, PHMSA Southern Region. The costs must be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.