



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh St S W
Washington, D C 20590

DEC 10 2003

Mr. William D. Scott
Vice President
Colonial Pipeline Company
P. O. Box 1624
Alpharetta, GA 30009-9934

RE: CPF No.1-2002-5009

Dear Mr. Scott:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It withdraws one of the allegations of violation, makes findings of violation, requires certain corrective actions and assesses a civil penalty of \$101,000. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5. At such time that the civil penalty is paid and the terms of the compliance order are completed, as determined by the Director, Eastern Region, this enforcement action will be closed.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

cc: Ms. Carole P. Sims, Senior Attorney
Mr. William H. Gute, Director, OPS Eastern Region

CERTIFIED MAIL RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590**

)	
In the Matter of)	
Colonial Pipeline Company,)	CPF No. 1-2002-5009
Respondent)	
)	

FINAL ORDER

Between January 10, 2001 and November 21, 2001 pursuant to 49 U.S.C. § 60117, representatives of the Eastern Region, Office of Pipeline Safety (OPS), a representative of the Commonwealth of Virginia State Corporation Commission (VA-SCC), and a representative of the State of New York Public Service Commission (NY-PSC) conducted onsite pipeline safety inspections and record reviews of Respondent's facilities in Delaware, Georgia, Maryland, Pennsylvania, New Jersey, New York, North Carolina, and Virginia. As a result of this investigation, the Director, Eastern Region, OPS, issued to Respondent, by letter dated September 13, 2002, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Part 195, proposed assessing a total civil penalty of \$182,500 for the alleged violations, and proposed that Respondent take certain measures to correct the alleged violations.

Respondent requested and was granted an extension of time to respond to the Notice by November 30, 2002. Respondent responded to the Notice by letter dated, November 27, 2002 (Response). Respondent contested four of the allegations, offered information in explanation of the allegations and in mitigation of the proposed penalty and requested a hearing. The hearing was held on March 4, 2003 in Washington, DC. After this hearing, Respondent provided additional information and a closing Response dated April 3, 2003.

In its post hearing submission and at the hearing, Respondent requested to enter into a Consent Order pursuant to 49 C.F.R. § 190.219. A consent order would not be appropriate in this matter as there are findings of violations and the assessment of a civil penalty. In addition, this Order addresses the issues raise by Respondent regarding the terms of the compliance order.

FINDINGS OF VIOLATION

(Uncontested)

At the hearing, Respondent did not contest three of the alleged violations in the Notice.

Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.402(a) -- failing to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies, as the Main Line Relief Block Valve at the Woodbury, NJ facility was found in the open position and not "locked open" as specified in Respondent's procedures. The "working" field alignment sheets in Richmond, VA did not have up-to-date revisions and changes to the Pipeline System Design and Drawings to show five new Main Line Block Valves installed on Line #27 in 1999.

49 C.F.R. § 195.404(a) -- failing to maintain current records of its pipeline system, as the Allentown, NJ facility had a thermal pressure relief valve on a pump casing tagged at a pressure of 770 psig but the thermal relief valve set pressure recorded in the facility inspection test records listed the set pressure as 800 psig.

49 C.F.R. § 195.410(a) -- failing to maintain clearly visible line markers with the correct name of the operator and a telephone number (including area code) where the operator can be reached at all times. Seventeen pipeline markers at the Craney Island, VA facility did not have the correct toll free emergency notification telephone number on them. At the Mitchell, VA facility eight pipeline marker signs at the road crossing for Highways #40 and Route #649 had frayed and peeling sticker decals with outdated emergency notification telephone numbers.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

(Contested Items)

Item 1 in the Notice alleged that Respondent violated 49 C.F.R. § 195.401(b) by failing to timely correct conditions that could adversely affect the safe operation of its pipeline system, as Respondent had 12 cathodic protection stations with low pipe-to-soil readings between the airport at Greensboro, NC and the NC/VA (Virginia) state line. The low pipe-to-soil readings were below Respondent's established criteria of -0.850v. At the time of the inspection, there was no indication in the records that any action was taken to correct the low potentials, which existed at one test station from 1998 to 2000 and at the other eleven test stations during 1999 and 2000.

In response to the Notice and at the hearing, Respondent acknowledged the low pipe-to-soil readings. However, Respondent argued that the condition could not adversely affect the safe operation of the pipeline system because it had initiated several projects to address low pipe to soil readings in the subject area. Respondent advised that internal line inspections conducted on Line 03 and 04 in 1995 and 1997 resulted in the evaluation, excavation and repair of external corrosion indications between the Greensboro, NC and the NC/VA State line. Respondent further advised that in response to a previous Notice, CPF #27501, it established re-inspection intervals for these line segments based on conservative corrosion rate evaluations, which are scheduled for completion in 2003. Respondent explained that its plans to address future low pipe-to-soil condition readings were discussed with the OPS Eastern Region in April 2001.

Nevertheless, Respondent does not dispute the violation report indicating that 12 cathodic protection stations had low pipe-to-soil readings between the airport at Greensboro, NC and the NC/VA State line. Although Respondent argued that it had initiated several projects to address low pipe to soil readings in the subject area, OPS presented evidence that at the time of the May 2001 inspection, there was no indication in the records that any action was taken to correct the low potentials. OPS evidence included Respondent's Test Report Exceptions for Corrosion Area 3 for Lines 03 and 04, which provides data from January 1, 1998 to December 21, 2000 showing structure pipe-to-soil readings less than -0.850v or casing pipe-to-soil readings less than -0.850v. Respondent's Exception Report, dated May 29, 2001, demonstrates the low pipe-to-soil readings.

Consistent low cathodic protection readings indicate that a pipeline is not receiving adequate protection, a condition that could adversely affect the safe operation of a pipeline system. The risk of corrosion on the pipeline significantly increases with inadequate pipe-to-soil potentials and can result in a pipeline failure. Preventive maintenance is critical to safety of the public, environment and property. Respondent had 12 cathodic protection stations with low pipe-to-soil readings with no indication or documentation of timely corrective action. One station had low readings for three consecutive years and eleven stations had low readings in 1999 and 2000. Accordingly, I find that Respondent violated 49 C.F.R. §195.401(b) by not taking actions to correct the condition within a reasonable amount of time.

Item 3 in the Notice alleged that Respondent had violated 49 C.F.R. § 195.402(d) when Respondent failed to follow procedures for abnormal operations to provide safety when operating design limits were exceeded. An "Unscheduled Shutdown Report" dated February 8, 2000, reported the incorrect opening of a valve, but did not include an investigation or information to demonstrate that the cause of the incident was investigated and corrected. Specifically, "[t]he shipper oil manifold selection panel was set-up to swing from Motiva to Citgo. When the cut button was pressed, the Old Dominion manifold valve opened instead of the Citgo valve. Situation was verified, then Citgo valve was opened and pressure released." Respondent provided no records to show that maintenance or repairs were performed on the valve or instrumentations and controls, as required by Respondent's Maintenance Project Work and Document Management Procedures to demonstrate that the abnormal operation condition had been properly investigated, corrected or documented to prevent a recurrence.

In response to the Notice and at the hearing, Respondent contended that § 195.402(d) is applicable to situations and in which the operating design limits have been exceeded, but does not apply in this particular instance. Respondent argued that the equipment performed exactly as it was designed to perform, making § 195.402(d) inapplicable. Respondent further argued that OPS incorrectly interpreted the term “operating design limit” in § 195.402(d) as “normal operating design limit” during the hearing. Respondent takes the position that if the regulation was intended to be interpreted as “normal operating design limit,” then the drafters would have used the modifier “normal,” much like it did in § 195.402(d)(1)(ii) when referring to “normal operating limits.” Nevertheless, Respondent advised that it now uses a computerized system, “Operational Performance Information System”, which includes a section for Abnormal Event reports that require a review and analysis by the Operations Manager and Operations Excellence Coordinator. Respondent explained that the new system will track the analysis, trending and follow-up corrective actions.

OPS argued that the allegation of violation refers to the procedures for documentation of personnel actions and equipment operation when there is a malfunction. In support of its position, OPS argued that “operating design limits” are characterized in § 195.402(d)(1)(v) as “any other malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property.”

The proposed violation concerns Respondent’s failure to properly investigate, correct and document the unintended valve closure. “When the cut button was pressed, the Old Dominion manifold valve opened instead of the Citgo valve.” When the cut button was pressed the expectation was that the Citgo manifold valve would open. However, an unintended or unexpected valve opened when the cut button was pressed, which was unperceived. The valve that would normally open and was expected to open failed to do so. This malfunction or deviation from the norm resulted in the generation of an “Unscheduled Shutdown Report”, which recorded an abnormal operation. This unscheduled or unexpected opening of the incorrect valve suggests that there was nothing normal about this occurrence, ergo the report was generated.

In sum, the regulations require operators to have and to follow a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Furthermore, Respondent’s Maintenance Project Work and Document Management Procedures require personnel to document that the incident had been investigated and that corrective action was taken to mitigate further occurrences. However, no investigation or information was documented to demonstrate that what caused the Old Dominion manifold valve to open instead of the Citgo valve was ever investigated and corrected. Accordingly, I find that Respondent violated 49 C.F.R. §195.402(d), as required by §195.402(a).

Item 6 in the Notice alleged that Respondent violated 49 C.F.R. § 195.416(a) by failing to conduct tests from 1997 to 2001 on each buried, in contact with the ground, or submerged pipeline. Eighty-nine (89) readings were not recorded for forty-five (45) cathodic protection test stations in New Jersey, New York, and Maryland.

In response, Respondent submitted documentation regarding its cathodic protection test station readings. Although, Respondent acknowledged that readings were not recorded for some test stations, Respondent argued that the number was less than the number stated in the Notice.

Based upon the documentation submitted by Respondent, OPS has determined that from 1997 to 2001 a total of 43 readings were not recorded for 29 cathodic protection test stations in New Jersey, New York, and Maryland and not 89 readings for 45 test stations as originally proposed, as more fully described in the Table below:

Missed/Undocumented Cathodic Protection Test Station Readings:			
AREA	Test Stations Missed	Annual Readings not recorded	# of Readings Missed
Linden, NJ	1	1997	1
	1	1997 & 2000	2
	13	1999 & 2000	26
	8	2000	8
Staten Island, NY	2	2000	2
Reisterstown, MD	4	2000	4
TOTAL	29	1997, 1999 & 2000	43

Monitoring critical locations of a pipeline or a structure where the risk of corrosion is greatest allows personnel to take immediate action against the potential for a pipeline failure. Inspection and testing at the required intervals are essential to knowing that the pipeline equipment is being maintained, will function properly and that the integrity of the pipeline system is not compromised. The magnitude of the risk of failure increases when there is a lack of monitoring of a pipeline's condition and the efficiency of any mitigation program to reduce or arrest corrosion. Accordingly, I find Respondent violated 49 C.F.R. §195.416(a), by failing to record 43 readings for 29 cathodic protection test stations from 1997 to 2001 in New Jersey, New York, and Maryland.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF ALLEGATION

Item 7 in the Notice alleged that Respondent violated 49 C.F.R. § 195.436, by failing to adequately secure its facility from unauthorized entry, as an electrical service cutoff switch, which is the main power supply to the valve site, was located outside the fence. In response, Respondent submitted information to evidence that Virginia Power Company considers the electrical equipment at issue to be their equipment and subject to their control. The contract language between the Respondent and Virginia Power states that Virginia Power “shall have the right to discontinue the supply of electricity without notice if access is denied.” As set forth under § 110(08) in Virginia Power’s *Information and Requirements for Electrical Service 1998*, “[t]he company shall have the right of access to the customer’s premises at all reasonable times for the purpose of reading company meters, removing company property, and for any other proper purpose.” In furtherance, § 230(02) of that document provides “[t]he customer shall provide and maintain a suitable space for the installation of the necessary metering apparatus. This space shall be readily accessible and convenient for reading, testing, maintaining, and servicing of the meter equipment”. Because this is an unmanned location, relocation of the switch inside the fence would be considered by Virginia Power to be a denial of access, and creating an electric power safety issue. Therefore, security has been addressed by having the valve status monitored in the Alpharetta Control Center. Based on this information, I am withdrawing this allegation of violation.

ASSESSMENT OF PENALTY

The Notice proposed a \$182,500 civil penalty for violation of 49 C.F.R. §§ 195.401(a), 195.402(a), 195.402(d), 195.404(a), 195.410(a), and 195.416(a). Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

The proposed penalty for **Item 1** is \$13,000 for violation of 49 C.F.R. § 195.401(b). Respondent failed to timely correct conditions at 12 cathodic protection stations with low pipe-to-soil readings, which could adversely affect the safe operation of its pipeline system. Without adequate cathodic protection, corrosion can occur resulting in a pipeline failure. A failure in a line carrying hazardous liquids poses a danger to the public and the environment. Respondent has not provided any evidence that would justify mitigation of the penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$13,000.

The proposed penalty for **Item 2** is \$2,000 for violation of 49 C.F.R. § 195.402(a). Respondent did not contest the alleged violation but advised that it had instituted corrective measures and contended that the proposed civil penalty was excessive. Respondent has not provided any evidence that would justify mitigation of the penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$2,000.

The proposed penalty for **Item 3** is \$1,000 for violation of 49 C.F.R. § 195.402(d). Respondent failed to follow procedures to conduct an investigation or gather information to demonstrate that the cause of an incorrect valve opening was investigated, corrected or documented to prevent a recurrence. Respondent argued that proposed civil penalty should be withdrawn because the equipment performed exactly as it was designed to perform, making § 195.402(d) inapplicable. The unscheduled or unexpected opening of the incorrect valve suggests that there was nothing normal about this occurrence. Respondent did not deny that no information was gathered to demonstrate that the cause of the opening of an incorrect valve was investigated and corrected. Respondent has not provided any evidence that would justify the withdrawal of the proposed civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$1,000.

The proposed penalty for **Item 4** is 2,000 for violation of 49 C.F.R. § 195.404(a). Respondent did not contest the alleged violation but requested that the proposed civil penalty be reduced. Documentation is essential not only to show that the set pressure and test pressure of critical safety valves are accurately maintained but to ensure the safe operation, maintenance and repair of pipeline systems and components. Without documentation and sound record keeping, it is difficult for an operator to ensure that all inspections, testing, calibration, and repair records are accurately maintained. Respondent has not provided any evidence that would justify mitigation of the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$2,000.

The proposed penalty for **Item 5** is \$25,000 for violation of 49 C.F.R. § 195.410(a). Respondent did not contest the alleged violation but explained that the facility where some of the line markers are located is a government-controlled environment which limits its access to the line markers. Respondent further explained that the operator at the facility has Respondent's correct emergency telephone number in its emergency plan. Respondent requested mitigation of the civil penalty because the scope of the pipeline marker survey is overbroad and should be reduced to a limited geographical area, rather than 5,000 miles.

Based upon a review of recent inspection and compliance activities, the area Respondent is required to survey will be limited to the geographical boundaries of the Richmond District, from Witt Station to the south and the Rapidan River to the north. Limiting the geographical area of the survey in no way reduces the gravity of the violation. The geographical limitation is merely tailored to Respondent's organizational structure. In the event of an emergency, the lack of clearly visible line markers will interfere with and delay first responders' efforts to contact the Respondent, which poses a danger to the public and the environment. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$25,000.

The proposed penalty for **Item 6** is \$139,500 for violation of 49 C.F.R. § 195.416(a). Respondent failed to conduct tests from 1997 to 2001 on each buried, in contact with the ground, or submerged pipeline. The Notice alleged that eighty-nine (89) readings were not recorded for forty-five (45) cathodic protection test stations in New Jersey, New York, and Maryland. Respondent acknowledged that readings were not recorded for some test stations, but argued that the number was less than the Notice alleged. Respondent indicated that many of the missing records were a result of poor internal management. Subsequently, Respondent submitted associated records relative to the missing records. Based upon a review of this documentation, OPS has determined that from 1997 to 2001 a total of 43 readings were not recorded for 29 cathodic protection test stations. Respondent has provided evidence that would justify mitigation of the civil penalty. After further review of the number of missed test stations and the number of years the test stations were missed, the OPS Compliance Officer computations were recalculated. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$58,000.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$101,000. A determination has been made that Respondent has the ability to pay this penalty without adversely affecting its ability to continue business.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$101,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to **Item 5** for violation of 49 C.F.R. §195.410(a).

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

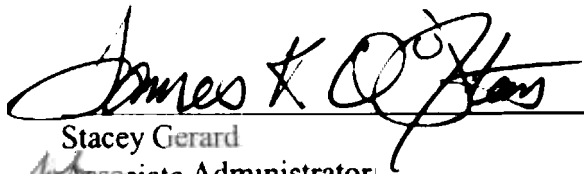
1. Survey all its pipeline marker signs on all pipelines, stations, block valves, stubs, laterals to Roanoke and Norfolk, connecting stubs and delivery lines from the Witt Station to the south and the Rapidan River to the north in Virginia, for incorrect emergency telephone numbers and illegible signs including any fraying or weathered decals/signs and replace them as necessary to ensure that correct active emergency notification telephone numbers are clearly displayed and legible as required by 49 C.F.R. §195. 410(a). The principle pipeline numbers are 3, 4, 25, and 27.

Legible and correct telephone numbers must be posted with 180 days of receipt of this Order.

2. Submit confirmation and/or evidence of completion of these actions to the Director, OPS, Eastern Region, 409 3rd Street, SW, Suite 300, Washington, DC 20024.
3. The Director, OPS, Eastern Region may grant an extension of time for compliance with any of the terms of this order for good cause. A request for an extension must be in writing.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.


Stacey Gerard
Associate Administrator
for Pipeline Safety

DEC 10 2003

Date Issued