



U.S. Department
of Transportation

DEC 29 2011

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

Mr. Tim Felt
President and Chief Executive Officer
Colonial Pipeline Company
1185 Sanctuary Parkway, Suite 100
Alpharetta, GA 30009-4738

Re: CPF No. 1-2011-5004

Dear Mr. Felt:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$43,100. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated May 9, 2011. This enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. A. Mac Taylor, Regulatory Manager, Colonial Pipeline Company
Mr. Byron Coy, Director Eastern Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED | 71791000164203038408 |

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)
)

COLONIAL PIPELINE COMPANY,)

Respondent.)
_____)

CPF No. 1-2011-5004

FINAL ORDER

Between August 16-20, 2010, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Colonial Pipeline Company's (Colonial or Respondent) facilities throughout Maryland and records located in Woodbine, Maryland. Respondent owns and operates approximately 5,519 miles of hazardous liquid pipeline, which delivers petroleum products to 12 states and the District of Columbia.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated April 8, 2011, a Notice of Probable Violation, Proposed Civil Penalty and Warning (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Colonial had violated 49 C.F.R. § 195.412(a) and proposed assessing a civil penalty of \$43,100 for the alleged violation. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 195 and warned Respondent to take appropriate corrective action or be subject to future enforcement action.

Colonial responded to the Notice by letter dated May 23, 2011 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$43,100, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDING OF VIOLATION

In its Response, Colonial did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.412(a), which states:

¹ http://www.colpipe.com/ab_main.asp (last accessed August 26, 2011).

§ 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

The Notice alleged that Respondent violated 49 C.F.R. § 195.412(a) by failing to adequately inspect the surface conditions on or adjacent to each of its pipeline right-of-ways (ROWs), using aerial or foot patrols, at intervals not exceeding 3 weeks, but at least 26 times each calendar year. Specifically, the Notice alleged that during the mid-August 2010 audit, PHMSA had observed and photographed overgrown areas with dense vegetation, excessive tree canopy, and obscured pipeline markers on or adjacent to Colonial's ROW at its main line crossings of Line 3 and Line 4 at Esworthy Road, Mockingbird Drive by property plots 14A-14D and Pennington Avenue. PHMSA asserted that the company's aerial patrol records did not indicate the overgrown areas; and the August 9, 2010 aerial patrol records did not reference any areas of concern or low visibility. I find that Colonial failed to demonstrate that it performed inspections of the surface conditions on or adjacent to the ROW where overgrown trees on the ROW precluded effective inspection of the pipeline surface conditions by aerial patrol. Colonial did not dispute the allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.412(a) by failing to inspect the surface conditions on or adjacent to its pipeline ROWs using aerial patrols, at intervals not exceeding 3 weeks, but at least 26 times each calendar year.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative 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. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$43,100 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$43,100 for Respondent's violation of 49 C.F.R. § 195.412(a), for failing to inspect the area surface conditions on or adjacent to each of its pipeline ROWs at intervals not exceeding 3 weeks, but at least 26 times each calendar year. Respondent did not contest the allegation of violation. This regulation provides safety precautions that minimize the risk of accident or injury to human life, the environment and

property. Maintaining a system of inspection ensures reasonable promptness in the detection of all surface conditions on and adjacent to the pipeline ROW. Respondent is fully culpable for its failure to inspect surface conditions on or adjacent to its pipeline ROW within the required interval. The overgrown areas inhibited Colonial's ability to effectively inspect the ROW by aerial patrol. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$43,100, already paid by Respondent for violating 49 C.F.R. § 195.412(a).

WARNING ITEMS

With respect to Items 2, 3, and 4, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.505(f) (**Item 2**) — Respondent's alleged failure to communicate changes that affect a covered task to individuals performing those covered tasks, as the company instituted an updated procedure for locating and marking lines prior to excavation and a Colonial employee used an outdated version of the procedure;

49 C.F.R. § 195.54(a) (**Item 3**) — Respondent's alleged failure to file an accident report within 30 days after discovery of the accident, as required by §195.50; and

49 C.F.R. § 195.505(f) (**Item 4**) — Respondent's alleged failure to communicate changes that affect a covered task to an individual performing that covered task. Respondent's employee had continued to use the notation "I/A" (impaired access) after Colonial instituted an updated procedure to discontinue the use of "I/A" for monthly tank inspections.

Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.505(f) (Notice Item 2), 49 C.F.R. § 195.54(a) (Notice Item 3), and 49 C.F.R. § 195.505(f) (Notice Item 4) have occurred and Respondent is hereby advised to correct such conditions. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

DEC 29 2011

Date Issued