



U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

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

OVERNIGHT EXPRESS DELIVERY

April 8, 2011

Mr. Tim Felt
President and Chief Executive Officer
Colonial Pipeline Company
1185 Sanctuary Parkway, Suite 100
Alpharetta, GA 30004-4738

CPF 1-2011-5004

Dear Mr. Felt:

On August 16-20, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Colonial Pipeline Company's (Colonial) pipeline facilities throughout Maryland and records in Woodbine, Maryland.

As a result of the inspection, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §195.412(a) 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.

Colonial did not adequately inspect the surface conditions on or adjacent to the pipeline right-of-way (ROW) due to vegetation and overgrown tree canopy on the ROW. At the time of the inspection, Colonial was using aerial patrol as the only method to meet the requirement, but they failed to maintain its ROW sufficiently to allow inspection of the surface conditions by aerial patrolling.

Areas of dense vegetation, excessive tree canopy, and obscured pipeline markers were identified during the inspection. The identified conditions were noted in photographs of the ROW, taken by the PHMSA representative, at main line crossings of Line 3 and Line 4 with Esworthy Road, Mockingbird Drive by property plots 14A – 14D and Pennington Avenue crossing. In addition, the ROW records for the aerial inspection conducted on August 9, 2010 did not show any indication of concerns or low visibility.

2. §195.505(f) Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(f) Communicate changes that affect covered tasks to individuals performing those covered tasks;

Colonial did not adequately communicate changes that affected a covered task to an individual performing that covered task.

During the inspection in August 2010, a Colonial employee performed *Covered Task 17.1 Locate Line for Temporary Marking Prior to Excavation* in accordance to *Colonial Pipeline Company Right-of-Way Procedure ROW/Line Locating and Marking, NOP-ROW-003, Rev 2, 6/15/2009*. Colonial had instituted an updated procedure, Rev 3, 6/25/2010; thus the Colonial employee had used an outdated version of the procedure at the time of the inspection.

3. §195.54(a) Accident reports.

(a) Each operator that experiences an accident that is required to be reported under §195.50 shall as soon as practicable but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, or a facsimile.

Colonial failed to file a report of an accident that is required under §195.50 within 30 days after discovery of the accident.

During the inspection in August 2010, Colonial provided a copy of an Accident Report – Hazardous Liquid Pipeline Systems, Form RSPA F 7000-1 (01-2001) dated 6/22/2009 for an accident that occurred on 3/13/2009. This exceeded the “no later than 30 days after discovery of the accident” as specified in the regulation. While the operator stated that they believe the spill was less than 5 gallons initially, the operator learned later that the spill was greater than 5 gallons, prompting the filing of the Accident Report dated 6/22/09. Colonial personnel could not locate any evidence, at the time of the inspection, of when they discovered that the spill exceeded 5 gallons.

4. §195.505(f) Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(f) Communicate changes that affect covered tasks to individuals performing those covered tasks;

Colonial did not adequately communicate changes that affected a covered task to an individual performing that covered task.

During the inspection in August 2010, a review of completed Monthly Tank Inspection Checklist Form #3345 showed to be inconsistent with an e-mail message directive Colonial distributed that advised employees not to use the notation “I/A” (impaired access) under certain conditions when performing monthly tank inspections. However, Colonial employees continued to use the notation “I/A” for multiple breakout tanks and other locations after the fact.

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 \$43,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$43,100

Warning Items

With respect to items 2, 3, and 4, 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 Colonial Pipeline Company 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.

Please address your correspondence on this matter to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Rd., Suite 103, West Trenton, NJ 08628 and refer to **CPF 1-2011-5004**. For each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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