

**MAR 21 2011**

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

**Re: CPF No. 1-2008-5002**

Dear Mr. Felt:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$70,000, and specifies actions that need to be taken by Colonial Pipeline Company to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order are completed, as determined by the Director, Eastern Region, this enforcement action will be 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. Byron Coy, Director, Eastern Region, PHMSA

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED[7005 1160 0001 0041 3603]**

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

_____	)	
<b>In the Matter of</b>	)	
	)	
<b>Colonial Pipeline Company,</b>	)	<b>CPF No. 1-2008-5002</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

Between February and April 2007, pursuant to 49 U.S.C. § 60117, a representative of the Virginia State Corporation Commission (VA SCC), as agent for 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) pipeline extension project near Dulles International Airport in Virginia. Respondent owns and operates approximately 5,519 miles of hazardous liquid pipeline which deliver petroleum products to 12 states and the District of Columbia.<sup>1</sup>

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated April 7, 2008, 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 Colonial had violated 49 C.F.R. § 195.202 and assessing a total civil penalty of \$70,000 for the alleged violations. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Colonial responded to the Notice by letter dated May 9, 2008 (Response). Respondent did not dispute the allegations but requested that the proposed civil penalty be reduced. The company did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

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

<sup>1</sup> [http://www.colpipe.com/ab\\_main.asp](http://www.colpipe.com/ab_main.asp) (last accessed February 25, 2011).

**Item 1A:** The Notice alleged that Respondent violated 49 C.F.R. § 195.202, which states:

**§ 195.202 Compliance with specifications or standards.**

Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 195.202 by failing to construct its pipeline extension project in accordance with comprehensive written specifications consistent with the requirements of 49 C.F.R. Part 195. Specifically, it alleged that Respondent failed to properly ground certain detector equipment used to check for “holidays” or breaks in the anti-corrosion coating on the pipe. The manufacturer of the instrument stated in its operating manual that “a good ground return system for both the pipe and the detector will always provide the best and most reliable inspection.”<sup>2</sup> However, on April 11, 2007, the VA SCC inspector observed and photographed Colonial personnel using the detector without properly grounding it. As a result, the company missed several coating holidays. Colonial did not dispute this allegation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.202 by failing to construct its pipeline extension project in accordance with comprehensive written specifications for grounding the holiday detector.

**Item 1B:** The Notice alleged that Respondent further violated 49 C.F.R. § 195.202 by failing to construct its pipeline extension project in accordance with comprehensive written specifications consistent with the requirements of 49 C.F.R. Part 195. Specifically, it alleged that Respondent failed to follow certain coating repair procedures specified by the manufacturer. The manufacturer set forth specific procedures for replacing the coating. However, on February 27, 2007, the VA SCC inspector observed Respondent’s contractor applying the coating repair material incorrectly and not in conformance with the manufacturer’s specifications. The inspector informed Colonial personnel of the proper procedure for applying the coating repair, discussed the repairs with Colonial’s regulatory manager, provided photographs documenting the improper repairs, and supplied Colonial with an additional copy of the manufacturer’s repair procedures. However, on March 7, 2007, the inspector again observed the contractor improperly applying the coating repair. Subsequent tests performed on the coating confirmed that the repairs did not bond properly to the pipeline. Respondent did not dispute this allegation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.202 by failing to construct its pipeline extension project in accordance with comprehensive written specifications for applying the pipeline coating repair.

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

---

<sup>2</sup> Pipeline Safety Violation Report, April 7, 2008 (Violation Report) (on file with PHMSA).

### **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 the 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 \$70,000 for the violations cited above.

With respect to Items 1A and 1B, the Notice proposed a civil penalty of \$35,000 for each violation of 49 C.F.R. § 195.202. The Dulles pipeline extension project is located in a high consequence area (HCA) and failure to follow holiday detector and coating procedures could cause a future release of product. This line carries jet fuel, creating additional concerns for the safety of the surrounding public.

Although Respondent did not dispute the violations, it requested a reduction of the \$70,000 total civil penalty. The company argued that a reduction was appropriate on account of its "good faith" in correcting the violations in both Items 1A and 1B, at the time of the inspection or before the Notice was issued. In addition, Respondent argued that the company would incur additional costs in completing the Compliance Order that were unnecessary. Therefore, Colonial asserted that a civil penalty, in addition to the costs it would incur in satisfying the Compliance Order, would be excessive.

I am not convinced that a reduction in the proposed civil penalty is warranted. With respect to Item 1A, the facts are not in dispute. The violations of § 195.202 were observed at the time of the inspection. Due to the Respondent's failure to comply with § 195.202, company personnel missed coating holidays. These holidays would have remained undetected if the inspector had not required Respondent to re-examine the pipe. Holidays cannot be remediated if they are overlooked during construction and can accelerate corrosion and lead to the subsequent failure of the pipeline. Although Colonial has now located and repaired the previously undetected holidays at the direction of the inspector, this is what any reasonable and prudent operator would be expected to do. This action does not constitute a pre-violation "good faith" attempt to achieve compliance that, at times, may warrant mitigation of a proposed penalty. On the contrary, Colonial has an obligation to comply with the pipeline safety regulations without the necessity of an inspector's visit.

In addition, this particular pipeline extension project is located in an HCA, a factor that actually increases the gravity of the offense because it carries a heightened risk of potential environmental and public safety harm in the event of an accident. Finally, Colonial has had a

prior history of related violations for failure to prepare and follow its manual for operations, maintenance and emergencies.<sup>3</sup> Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$35,000 for Item 1A.

With respect to Item 1B, the VA SCC inspector personally observed the violations and notified Respondent of the improper coating repairs on February 27, 2007. However, on March 7, 2007, company personnel were still applying the coating repair incorrectly, putting the safety of the pipeline at risk. Maintaining and adhering to written specifications ensures that construction activities are performed in a consistent manner, with all personnel cognizant of the applicable requirements. Colonial had ample opportunity in this case to correct the repair concerns after the inspector's first visit and yet its personnel continued to apply the coating incorrectly. As noted above, Colonial has an obligation to comply with the pipeline safety regulations without the necessity of an inspector's visit. The proposed civil penalty is appropriate for this type of violation, particularly in terms of the culpability of Respondent's personnel and the location of the construction project in an HCA. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$35,000 for Item 1B.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of \$70,000 for violating 49 C.F.R. § 195.202 (Items 1A and 1B).

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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125. The Financial Division's telephone number is (405) 954-8893.

Failure to pay the \$70,000 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 Items 1A and 1B in the Notice for violations of 49 C.F.R. § 195.202. 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

---

<sup>3</sup> See, *In the Matter of Colonial Pipeline Company*, Final Order, CPF No. 1-2002-5009 (December 10, 2003) (available at [www.phmsa.dot.gov/pipeline/enforcement](http://www.phmsa.dot.gov/pipeline/enforcement)); See, *In the Matter of Colonial Pipeline Company*, Final Order, CPF No. 2-2004-5005 (October 18, 2004) (available at [www.phmsa.dot.gov/pipeline/enforcement](http://www.phmsa.dot.gov/pipeline/enforcement)).

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:

1. Conduct a close-interval survey (CIS) and a Direct Current Voltage Gradient (DCVG) survey or an Alternating Current Voltage Gradient (ACVG) survey of the pipeline to check for coating holidays. A CIS and a DCVG or ACVG of the pipeline should take into consideration any effects of ground stabilization from the time the pipeline was backfilled.
2. Excavate and examine all survey indications that correspond to possible large coating holidays using the assessment protocols in the table below to correct any undetected coating damage. Subsequent surveys should show no large coating holidays remaining after the initial assessment.
3. Evaluate DCVG or ACVG coating survey results as follows:
  - The threshold survey indication values are **50% IR** for DCVG and **70dB $\mu$ V** for ACVG. These values represent the severe category in the severity classification used to characterize survey indications in the GTI ECDA Protocol Rev 4.

GTI ECDA Protocol Rev 4 Severity Table

Severity of Measurement Amplitude Change of Indication (In Units of Measurement Resolution see Table 4.4.2)			
Tool	MINOR	MODERATE	SEVERE
CIS (impressed current system)	Small Dips, on & off potentials both are more negative than -0.850 V	Medium Dips, on potential more negative than -0.850 V off potential not more negative than -0.850 V	Large Dips, on & off potentials, both not more negative than -0.850 V
DCVG	1-35%	35-50%	50-100%
PCM (EM, AC Atten.)	1-30%	30-50%	50-100%
PCM A-Frame (ACVG)	30-50 dB $\mu$ V	50-70 dB $\mu$ V	> 70 dB $\mu$ V (2 ft intervals around defect)

- Colonial will submit a proposed remediation plan to PHMSA for indications found above the threshold values.
  - Colonial will conduct a calibration dig on at least one anomaly that is classified as minor and moderate to ensure findings that are not in the remediation plan are not detrimental to the pipeline.
4. Monitor current cathodic protection requirements to determine if there are other coating issues with the pipeline. Any significant change in cathodic protection requirements,

such as a 10% to 20% overall increase, will trigger a follow-up investigation. Test stations will be available to facilitate monitoring.

5. Submit to PHMSA a summary report, with coating evaluation survey results and excavation/remediation results.
6. All the above-mentioned remedial items must be completed within 120 days of receipt of the Final Order.
7. Colonial Pipeline is requested to maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, PE, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Road, West Trenton, New Jersey 08628. Costs should 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.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

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 sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other 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

---

Date Issued