



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

SEP 23 2011

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

Re: CPF No. 4-2011-5001

Dear Mr. Felt:

Enclosed please find the Final Order issued in the above-referenced case. It makes a findings of violation and assesses a civil penalty of \$18,700. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety
Mr. Rod M. Seeley, Director, Southwest Region, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0075 9923]

**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,)	CPF No. 4-2011-5001
)	
Respondent.)	
_____)	

FINAL ORDER

On June 9, 2010, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), initiated an investigation of a petroleum products spill that occurred on a pipeline system operated by Colonial Pipeline Company (Colonial or Respondent). Colonial owns and operates a total of 5,519 miles of pipelines transporting fuels from refineries in Texas, Louisiana, Mississippi and Alabama to communities across the Southern and Eastern United States.¹

The accident occurred on August 1, 2009, at approximately 5:00 p.m. C.S.T., at Respondent's Houston station, in Pasadena, Texas, and resulted in the release of approximately eight barrels of diesel product.² Colonial found diesel product in an access well around the Pasadena Manifold valve at the Houston station.

As a result of the investigation, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated January 6, 2011, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Colonial had violated 49 C.F.R. § 195.54 and assessing a civil penalty of \$18,700 for the alleged violation.

Colonial responded to the Notice by letter dated February 7, 2011 (Response). Colonial did not contest the probable violation but offered additional information in support of its request to reduce the civil penalty. Respondent did not request a hearing and therefore has waived its right to one.

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

² Colonial Pipeline Company, DOT Form 7000-1, dated August 14, 2009.

FINDING OF VIOLATION

In its Response, Colonial did not contest the allegation in the Notice that it violated 49 C.F.R. § 195.54, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.54(b), which states:

§ 195.54 Accident reports.

(a)

(b) Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.

The Notice alleged that Respondent violated 49 C.F.R. § 195.54(b) by failing to file a supplemental report within 30 days after it received changes or additions to the information reported in the original DOT/PHMSA Form 7000-1. Section 195.54(b) requires an operator to file a supplemental DOT/PHMSA Form 7000-1 whenever the operator receives any changes in the information originally reported. Colonial filed the original DOT/PHMSA 7000-1 report on August 14, 2009, listing the cause of the accident as unknown.³ On October 23, 2009, Colonial completed its accident investigation and determined that the cause of the accident was a material defect due to a defective valve.⁴ OPS alleged that Colonial should have submitted a supplemental DOT/PHMSA 7000-1 by November 23, 2009, within 30 days of completing its accident investigation. However, Colonial did not file the supplemental report until approximately six months later, on May 24, 2010, after prompting by PHMSA.

In its Response, Colonial acknowledged that the report was not filed within the required 30 days. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.54(b) by failing to file a supplemental report within 30 days after it received changes in the information reported or additions to the original report. Any arguments Colonial made regarding the amount of the proposed civil penalty will be addressed in the next section.

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

³ Pipeline Safety Violation Report (Violation Report) (January 6, 2011), Exhibit A, DOT Form 7000-1, dated August 14, 2009.

⁴ Response, at 1.

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.

Item 1: The Notice proposed a civil penalty of \$18,700 for failure to file a supplemental report within the time frame required under the pipeline safety regulations. Although Colonial did not contest the allegation, it provided additional information to support its request for a reduced civil penalty amount. First, Colonial stated that its accident investigation was not complete until January 22, 2010, when the Incident Analysis Report was approved and signed. According to Colonial, the October 23, 2009 date only represented the date of the draft investigation report. Therefore, Colonial requested a reduction in the civil penalty to reflect that the supplemental report was only three months late and not the six months alleged by OPS. Colonial also argued that the civil penalty amount should account for the fact that the supplemental report was filed on May 24, 2010 and not May 26, 2010. Finally, Colonial summarized recent improvements to its communication process for preventing future violations of § 195.54(b) and ensuring that supplemental reports are timely filed.

The proposed civil penalty of \$18,700 is based on the civil penalty assessment factors listed in 49 C.F.R. § 190.225. As reflected in Part C of the Violation Report, the nature and circumstances of the violation, the culpability of the operator, and the operator's history of prior offenses were particularly relevant in this case. The \$18,700 proposed civil penalty is lower than other proposed civil penalties based on the fact that it is a records violation and not a substantive safety violation. The requirement to file a supplemental report is not a new regulation and Colonial should have been aware of its obligations under the pipeline safety regulations. Finally, Colonial was issued three Final Orders (four violations) in the five years that preceded the Notice.

Furthermore, I do not accept Colonial's argument that the penalty should be reduced because the report was only filed three months late, not six. As stated in the "circumstances" section of Part C of the Violation Report, the violation was discovered by PHMSA. Colonial only filed the report after prompting by PHMSA. This outweighs any reduction that may have been considered for duration. Having reviewed the civil penalty assessment factors and the evidence presented in this case, I find that the proposed civil penalty of \$18,700 is justified. Accordingly, I assess Respondent a civil penalty of \$18,700 for violation of 49 C.F.R. § 195.54(b).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to 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, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Under 49 C.F.R. § 190.215, Respondent has the 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, 2nd 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 the 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 but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

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

SEP 23 2011

Date Issued