

JUN 17 2011

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

Re: CPF No. 1-2010-5001

Dear Mr. Felt:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws a finding of violation and proposed civil penalty. Therefore, 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. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety
Mr. Byron Coy, Director, Eastern Region, PHMSA
Ms. Caroline P. Sims, Senior Attorney, Colonial Pipeline Company

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0075 9565]

**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. 1-2010-5001
)	
Respondent.)	
)	

FINAL ORDER

On October 17, 2006, pursuant to 49 U.S.C. § 60117, a representative of the Virginia State Corporation Commission, as agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Colonial Pipeline Company (Colonial or Respondent) in Chesapeake, Virginia. Colonial is the operator of a 5,519-mile pipeline system, which delivers petroleum products from refineries in Texas, Louisiana, Mississippi, and Alabama to terminals in the South and Eastern United States.

The investigation arose out of an incident that occurred at the Chesapeake Terminal on October 16 and 17, 2006. The incident involved a breakout tank that overflowed while receiving petroleum products from the Colonial pipeline. At the time of the incident, a valve on the breakout tank had been left open, and a high-level alarm failed to communicate the unsafe condition of the tank to the Colonial Operation and Control Center (OCC) in Atlanta, Georgia. During the week prior to the incident, the Allied Terminal manager had informed the OCC that the high-level alarms on the tank had failed.

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated February 16, 2010, a Notice of Probable Violation and Proposed Civil Penalty. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 195.401(b) and proposed assessing a civil penalty of \$92,500 for the alleged violation.

Colonial responded to the Notice by letters dated March 17, 2010, and April 12, 2010 (Response).

WITHDRAWAL OF ALLEGATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.401(b), which as of the date of the Notice, stated:

§ 195.401 General Requirements

(a) . . .

(b) Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it shall correct it within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.¹

The Notice alleged that Colonial violated 49 C.F.R. § 195.401(b) by operating a part of its pipeline system without correcting a condition that presented an immediate hazard to persons or property. Specifically, the Notice alleged that Respondent knew that the high-level alarms on the Chesapeake Terminal breakout tank had failed on October 9, 2006, and delivered petroleum products to the tank on October 16 and 17, 2006, without correcting that unsafe condition.

In its Response, Colonial stated that Allied Terminals, Inc. (Allied) is the owner and operator of the Chesapeake Terminal. Respondent further stated that Colonial relinquishes custody over the petroleum products delivered to the Terminal at an isolating flange, that the company has no authority over the conduct of the employees or operation of the breakout tanks that receive those petroleum products, and that it does not use the breakout tanks at the Chesapeake Terminal for storage, surge protection, or reinjection into its interstate pipeline system.

After considering all of the evidence, I hereby withdraw the allegation of violation.

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.

¹ Section 195.401(b) was amended by Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Edits, 75 Fed. Reg. 48593, 48607 (Aug. 11, 2010).

The Notice proposed a total civil penalty of \$92,500 for the alleged violation of § 195.401(b). Since the allegation has been withdrawn, the proposed penalty is not assessed.

This enforcement action is closed.

Jeffrey D Wiese
Associate Administrator
for Pipeline Safety

Date Issued