

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

OVERNIGHT EXPRESS DELIVERY

July 25, 2017

John W. Somerhalder
Interim President and Chief Executive Officer
Colonial Pipeline Company, LLC
1185 Sanctuary Parkway, Suite 100
Alpharetta, GA 30009

CPF 1-2017-5015

Dear Mr. Somerhalder:

From January 23–26, 2017, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code conducted a field verification inspection on field activities being performed by Colonial Pipeline Company (Colonial) in relation to its Integrity Management Program (IMP) in Woodbine, Maryland. The PHMSA representatives also inspected Colonial's Operations and Maintenance (O&M) procedures, IMP procedures, and Operator Qualification (OQ) records associated with the field activities.

Pursuant to the Amended Corrective Action Order (ACAO) CPF No.: 1-2015-5018H, Colonial had to review prior in-line inspection tool run results and integrate all data to determine if any features with similar characteristics as the failed pipe are present elsewhere on its Line 04.^{1,2} As a result of the requirements, Colonial discovered an anomaly on a section of Line 04 (on the carrier pipe inside a casing) located in Woodbine, Maryland, on March 23, 2016. Colonial's IMP

¹ On October 22, 2015, PHMSA, OPS issued an ACAA to Colonial requiring it to take certain actions with respect to the failure of its Line 04 pipeline on September 21, 2015 in Centreville, VA (available at www.phmsa.dot.gov/pipeline/enforcement).

² Line 04 is a hazardous liquid pipeline that runs from the Greensboro Tank Farm in Greensboro, North Carolina to the Dorsey Tank Farm in Woodbine, Maryland.

classified the anomaly as “4D-Anomalies that merit confirmation by visual inspection and in the opinion of the District and/or the Asset Integrity Team, do not represent immediate threats to pipe integrity.” Colonial scheduled to visually inspect the anomaly the week of January 23, 2017.

During the week of January 23, 2017, PHMSA representatives observed contractors excavate a cased section of Line 04 crossing under Fredrick Road (Route 144) near the town of Lisbon, Maryland (Dig #8). This section of Line 04:

1. Is located in an area that could affect a high consequence area.³
2. Is 32-inch diameter, 0.281 inch wall thickness, API-5L, and X52 pipe.
3. Has a maximum operating pressure (MOP) of 649 pounds per square inch gauge (psig)

PHMSA representatives also observed contractors prepare the 36-inch diameter casing on Line 04 for removal. The operating pressure ranged from 66 -74 psig at the time the casing was being removed. The contractors cut:

1. Longitudinally along each side of the casing, using a disc grinder and saw.
2. Around to the top of the casing and then they removed the top half of the casing.
3. Around to the bottom of the casing and then they removed the bottom half of the casing.

As a result of the inspection, it is alleged that Colonial has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. §195.505 Qualification program.

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

(a) Identify covered tasks;

Colonial failed to have and follow a written qualification program that identified removing a casing as a covered task on January 26, 2017, in accordance with §195.505(a).

On January 26, 2017, PHMSA representatives observed and photographed contractors cut and remove the casing on Line 04 to inspect an anomaly on the carrier pipe. During this inspection, a PHMSA representative requested to review its procedure for removing a casing. Colonial provided its *Maintenance Procedure, CM-216, Rev.1 09/01/2016, Remove Casing (Procedure)*. The *Procedure* provided “instructions for removal of steel casing that is installed on section of line pipe crossing under roads.” The *Procedure* also stated that the “purpose of removal work may be to facilitate examination, repair, relocation or improvement of the line pipe section.”

³ High consequence area means (1) A commercially navigable waterway, which means a waterway where a substantial likelihood of commercial navigation exists; (2) A high population area, which means an urbanized area, as defined and delineated by the Census Bureau, that contains 50,000 or more people and has a population density of at least 1,000 people per square mile; (3) An other populated area, which means a place, as defined and delineated by the Census Bureau, that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area; (4) An unusually sensitive area, as defined in §195.6. See 49 C.F.R. §195.450.

The PHMSA representative also requested to review the OQ records for those contractors who removed the casing. Colonial was unable to produce OQ records. Colonial explained that it follows American Petroleum Institute, Recommended Practice for Pipeline Operator Qualification (API RP 1161) and that removal of casing is not a covered task.

API RP 1161:

1. Is not incorporated by reference for a regulation in 49 C.F.R. Part 195.
2. Does not include an all-inclusive list of covered tasks. There could be additional tasks performed on pipeline systems that meet the definition of a covered task that are not listed in said document.

Colonial is required to have a written qualification program that identifies and documents a covered task as defined in §195.501. Section 195.501 defines a covered task as an activity that:

1. Is performed on a pipeline facility⁴
2. Is an operation and maintenance task
3. Is performed as a requirement of 49 C.F.R. Part 195; and
4. Affects the operation or integrity of the pipeline (referred to as the “four-part test”).

Based on the information above, removing a casing is considered to be a covered task because:

1. It is performed on a pipeline facility;
2. It is done in the course of pipeline operation and maintenance activities;
3. It is performed as a requirement of 49 C.F.R. Part 195 (e.g. §§195.402(a) and (c); 195.422; 195.452(b)(5) or 195.452(h)(3) which includes removing the casing on Line 04 to evaluate and possibly remediate the anomaly); and
4. If not properly removed it will affect the operation or integrity of the pipeline.

In an e-mail dated March 10, 2017, Colonial confirmed that it did not consider removing a casing to be a covered task with regards to Dig #8 on January 26, 2017. In another e-mail dated March 13, 2017, Colonial confirmed that its OQ program does not include “removing a casing” as a covered task and it is not a part of another covered task.

Therefore, Colonial failed to have and follow a written qualification program that included the identification of removing a casing, which occurred at Dig #8 on January 26, 2017, as a covered task, in accordance with §195.505(a).

2. §195.505 Qualification program.

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

(a) ...

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

⁴ The term “pipeline facility” means new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide. *See* 49 C.F.R. §195.2

Colonial failed to have and follow a written qualification program that ensured through evaluation that individuals who performed the covered task of removing a casing on January 26, 2017 were qualified in accordance with §195.505(b). As defined in §195.503, qualified means the individuals has been evaluated and can (a) performed the assigned covered tasks; and (b) recognize and react to abnormal operating condition.

On January 26, 2017, the PHMSA representative observed and photographed contractors cut and remove a casing on Line 4 to inspect an anomaly on the carrier pipe. During this inspection, a PHMSA representative requested to review the OQ records for the contractors who removed the casing. Colonial was unable to produce OQ records showing that the contractors were qualified prior to or at the time of performing this covered task. Colonial explained that it follows American Petroleum Institute, Recommended Practice for Pipeline Operator Qualification (API RP 1161) and that removal of casing is not a covered task.

API RP 1161:

1. Is not incorporated by reference for a regulation in 49 C.F.R. Part 195.
2. Does not include an all-inclusive list of covered tasks. There could be additional tasks performed on pipeline systems that meet the definition of a covered task that are not listed in said document.

Colonial is required to have a written qualification program that identifies and documents a covered task as defined in §195.501. Section 195.501 defines a covered task as an activity that:

1. Is performed on a pipeline facility⁵
2. Is an operation and maintenance task;
3. Is performed as a requirement of 49 C.F.R. Part 195; and
4. Affects the operation or integrity of the pipeline (referred to as the “four-part test”).

Based on the information above, removing a casing is considered to be a covered task because:

1. It is performed on a pipeline facility;
2. It is done in the course of pipeline operation and maintenance activities;
3. It is performed as a requirement of 49 C.F.R. Part 195 (e.g. §§195.402(a) and (c); 195.422; 195.452(b)(5) or 195.452(h)(3) which includes removing the casing on Line 04 to evaluate and possibly remediate the anomaly); and
4. If not properly removed it will affect the operation or integrity of the pipeline.

In an e-mail dated February 27, 2017, the PHMSA representative requested that Colonial provide a copy of the OQ records for removing the casing at Dig # 8. Colonial was unable to provide records. In another e-mail dated March 13, 2017, Colonial stated its OQ Program does not include “removing a casing” as a covered task so it does not have OQ records for a task that it does not have in its OQ Program. Consequently, Colonial could not demonstrate that the contractors were qualified nor were directed and observed by an individual who was qualified for the covered task of removing a casing.

⁵ The term “pipeline facility” means new and existing pipe, rights-of-way and any equipment, facility, or building used in the transportation of hazardous liquids or carbon dioxide. *See* 49 C.F.R. §195.2

Therefore, Colonial failed to ensure through evaluation that individuals who performed the covered task of removing a casing at Dig #8 on January 26, 2017 were qualified in accordance with §195.505(b).

Proposed Civil Penalty

As of April 27, 2017, under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$50,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$50,100

Proposed Compliance Order

With respect to items 1 and 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Colonial Pipeline Company. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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. All material you submit in response to this enforcement action may be 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

Please submit all correspondence in this matter to Robert Burrough, Acting Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628. Please refer to CPF 1- 2017-xxxx on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Acting Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Colonial Pipeline Company (Colonial) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Colonial with the pipeline safety regulations:

1. With regard to Item Number 1 of the Notice pertaining to Colonial's failure to have and follow a written qualification (OQ) program that identified removing a casing as a covered task, Colonial must ensure any and all activities associated with removing a casing on its pipeline facilities, which meet the four-part test, are identified as a covered task in its written OQ program as prescribed in §195.505(a).⁶ Colonial must submit the related amendment(s) from its covered task list. Colonial must also submit related documentation showing the method used to identify the covered task.
2. With regard to Item Number 2 of the Notice pertaining to Colonial's failure to have and follow a written qualification (OQ) program that ensured individuals were qualified to perform the covered task of removing a casing, Colonial must amend its written OQ program to ensure through evaluation that individuals who perform the covered task(s) in the amended cover task list from the above item will be qualified as prescribed in §195.505(b). Colonial must submit the related amendments from its written OQ program, which must include but not limited to: evaluation method and criteria; and evaluation for recognition and reaction to abnormal operating conditions.
3. All submissions must be provided within 60 days of receipt of the Final Order to Robert Burrough, Acting Director, Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628.
4. It is requested (not mandated) that Colonial maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Acting Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs 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.

⁶ A covered task is defined as an activity that (1) is performed on a pipeline facility; (2) is an operation and maintenance task; (3) is performed as a requirement of Part 195; and (4) affects the operation or integrity of the pipeline (referred to as the "four-part test"). See 49 C.F.R. §195.501.