



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

AUG 12 2009

1200 New Jersey Ave., SE
Washington, DC 20590

VIA CERTIFIED MAIL AND FAX TO: (304) 353-5234 [7005 0390 0005 6162 5692]

Mr. Michael A. John
Senior Vice President - Drilling and Operations
Chesapeake Appalachia, LLC
900 Pennsylvania Avenue
P.O. Box 6070
Charleston, WV 25362-0070

RE: CPF No. 2-2005-1003

Dear Mr. John:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$65,000, and specifies certain actions that need to be taken by Chesapeake 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 completed, as determined by the Director, Southern Region, PHMSA, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document 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: Ms. Tara D. Shumate Lee, Counsel for Columbia Natural Resources, LLC
Mr. Mark A. T. Williams, Director, Pipelines, Columbia Natural Resources, LLC
Ms. Linda Daugherty, Director, Southern Region, OPS

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

In the Matter of

**Chesapeake Appalachia, LLC,
f/k/a Columbia Natural Resources, LLC,**

Respondent.

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) **CPF No. 2-2005-1003**
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FINAL ORDER

Between June 28 and July 2, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Research and Special Programs Administration,¹ Office of Pipeline Safety (OPS), Southern Region, conducted an inspection of the natural gas pipeline facilities and records of Columbia Natural Resources, LLC (Columbia or Respondent), in Prestonsburg, Kentucky.² As of the date of the inspection, Respondent owned and operated oil and natural gas wells and pipelines in several states, including Oklahoma, Texas, Arkansas, Louisiana, Kansas, Colorado, North Dakota, Pennsylvania, and New Mexico.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated January 7, 2005, 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 Respondent committed various violations of 49 C.F.R. Part 192 and proposed 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.

In a letter dated February 4, 2005, Respondent submitted a Response to the Notice (Response). Respondent contested certain allegations of violation, requested clarification of portions of the proposed compliance order, provided information concerning the corrective actions it had taken, and proposed a possible consent order to resolve the Notice. A hearing was held on May 10, 2005, in Atlanta, Georgia, with Renita K. Bivins, Esquire, Office of Chief Counsel, PHMSA,

¹ Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to further the highest degree of safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) re delegating the pipeline safety functions of the Research and Special Programs Administration to the Administrator, PHMSA.

² According to documents supplied by Respondent, Columbia Natural Resources, LLC, merged with Columbia Energy Resources, LLC, to form Chesapeake Appalachia, LLC (Chesapeake), on February 1, 2006.

presiding. Respondent was represented by counsel at the hearing. On June 8, 2005, Respondent provided additional information and requested a waiver of certain regulatory requirements pursuant to 49 C.F.R. § 190.211(i). PHMSA granted Chesapeake a special permit to address these issues on July 6, 2007.³

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.614, which states, in relevant part:

§ 192.614 Damage prevention program.

(a) . . . [Each operator of a buried pipeline must carry out, in accordance with this section, a written program to prevent damage to that pipeline from excavation activities . . .

(b) An operator may comply with any of the requirements of paragraph (c) of this section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this section . . .

(c) The damage prevention program required by paragraph (a) of this section must, at a minimum:

(1) Include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located.

(2) Provides for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in paragraph (c)(1) of this section of the following as often as needed to make them aware of the damage prevention program:

(i) The program's existence and purpose; and

(ii) How to learn the location of underground pipelines before excavation activities are begun.

The Notice alleged that Respondent violated 49 C.F.R. § 192.614 by failing to carry out a written program to prevent damage to its pipeline from excavation activities. Under § 192.614, pipeline operators are required to maintain records identifying, on a current basis, persons who normally engage in excavation activities in the area in which the operator's pipelines are located. Specifically, the Notice alleged that during the inspection, Respondent failed to provide a list of excavators in the area of its pipeline or other records to demonstrate that its damage prevention program met all regulatory requirements. Respondent advised OPS that it relied on the Kentucky One-Call System to identify excavation activities in the area in which its pipelines were located. Respondent contended that its damage prevention program satisfied the requirements of § 192.614.

³ DMS Docket PHMSA – 2006-26532. The special permit pertains to allegations discussed in Item 3 below.

Respondent submitted documentation from Kentucky Underground Protection, Inc. (KY One-Call) certifying Respondent's participation in the state's one-call program, including a list of excavators and Respondent's form letter notifying excavators of the existence of the pipeline. Based on this record, I find that Respondent participates in a one-call system and has a damage prevention program to communicate with excavators notifying them that Respondent is the current operator and how to contact the company if the pipeline is damaged at any time during excavation activities. Therefore, this allegation of violation is withdrawn.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.615(c), which states:

§ 192.615 Emergency plans.

(a) . . .

(c) Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.615(c) by failing to establish and maintain liaison with appropriate fire, police, and other public officials. Specifically, the Notice alleged that Columbia was unable to provide records to demonstrate any liaison activities with public officials in years 2002 and 2003. During the hearing, Respondent submitted evidence of liaison activities with fire, police and other appropriate officials. However, the evidence related to activities that occurred after the inspection occurred, not during the relevant 2002-2003 time period. Respondent failed to provide any evidence that it had established and maintained liaison with the appropriate officials during such time. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.615(c) by failing to establish and maintain liaison with appropriate fire, police and other public officials in years 2002 and 2003.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.619, which states, in relevant part:

§ 192.619 Maximum allowable operating pressure: Steel or plastic pipelines.

(a) Except as provided in paragraph (c) of this section, no person may operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following:

(1) The design pressure of the weakest element in the segment, determined in accordance with subparts C and D of this part . . .

(2) The pressure obtained by dividing the pressure to which the segment was tested after construction as follows:

(i) . . .

(ii) For steel pipe operated at 100 p.s.i. (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table:

Class location	Factors, segment -		
	Installed before (Nov. 12, 1970)	Installed after (Nov.11, 1970)	Covered under § 192.14
1	1.1	1.1	1.25
2	1.25	1.25	1.25
3	1.4	1.5	1.5
4	1.4	1.5	1.5

(3) The highest actual operating pressure to which the segment was subjected during the 5 years preceding July 1, 1970 (or in the case of offshore gathering lines, July 1, 1976), unless the segment was tested in accordance with paragraph (a)(2) of this section after July 1, 1965 (or in the case of offshore gathering lines, July, 1971), or the segment was uprated in accordance with subpart K of this part.

(4) The pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and the actual operating pressure.

(b) No person may operate a segment to which paragraph (a)(4) of this section is applicable, unless over-pressure protective devices are installed on the segment in a manner that will prevent the maximum allowable operating pressure from being exceeded, in accordance with § 192.195.

The Notice alleged that Respondent violated 49 C.F.R. § 192.619 by operating a steel pipeline for which it could not substantiate that it had established an appropriate maximum allowable operating pressure (MAOP). In addition, it alleged that Columbia had operated a pipeline for which it could not show that over-pressure protection devices had been installed in order to prevent the MAOP from being exceeded. Respondent did not contest the allegations of violation. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.619, as set forth above.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.705(a) and (b), which state:

§ 192.705 Transmission lines: Patrolling.

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

(b) The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant

factors, but intervals between patrols may not be longer than prescribed in the following table:

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1, 2	7½ months; but at least twice each calendar year	15 months; but at least once each calendar year
3	4½ months; but at least four times each calendar year	7½ months; but at least twice each calendar
4	4½ months; but at least four times each calendar year.	4½ months; but at least four times each calendar year

The Notice alleged that Respondent violated 49 C.F.R. § 192.705(a-b) by failing to conduct patrols of its transmission pipeline within the time periods set forth in the table above during calendar years 2002 and 2003. Specifically, the Notice alleged that Columbia failed to produce records verifying that the patrols had been conducted within such time periods. Respondent did not submit any evidence refuting these allegations. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.705(a-b) by failing to conduct patrols of its transmission pipeline within the applicable time periods set forth in the table above and the inspector's Violation Report.⁴

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.706, which states, in relevant part:

§ 192.706 Transmission lines: Leakage surveys.

Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with §192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted-

(a) In Class 3 locations, at intervals not exceeding 7½ months, but at least twice each calendar year...

The Notice alleged that Columbia violated 49 C.F.R. § 192.706 by failing to conduct leakage surveys at intervals not exceeding 15 months, but at least once each calendar year. Specifically, the Notice alleged that Respondent's leakage survey records showed that the company had failed to complete all of the required surveys and that it had exceeded the maximum interval between

⁴ Violation Report, at Paragraphs 11-12.

leakage surveys in 2002 and 2003. At the hearing, Respondent did not have leakage survey records to show that it had completed all of the required leakage surveys in years 2002 and 2003. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.706 by failing to conduct all of required leakage surveys of its transmission pipeline and that it exceeded the maximum interval between surveys in years 2002 and 2003.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a), which states:

§ 192.745 Valve maintenance: Transmission lines.

(a) Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect and partially operate transmission line valves on its pipeline that might be required during an emergency, at intervals not exceeding 15 months but at least once each calendar year. Specifically, it alleged that Columbia's records failed to show any inspections for such valves in years 2001, 2002 and 2003. Neither during the inspection nor at the hearing did Respondent provide a valve list or designate alternative valves for emergency use. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect and partially operate transmission line valves at intervals not exceeding 15 months, but at least once each calendar year.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. §§ 192.225(a-b) and 192.227, which state, in relevant part:

§ 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under section 5 of API 1104 . . . to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard(s).

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 6 of API 1104 (incorporated by reference, see § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, see § 192.7). However, a welder qualified under an earlier edition than listed in appendix A of this part may weld but may not requalify under that earlier edition.

(b) A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by

performing an acceptable test weld, for the process to be used, under the test set forth in section I of Appendix C of this part. Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under section II of Appendix C of this part as a requirement of the qualifying test.

The Notice alleged that Respondent violated 49 C.F.R. § 192.225(a-b) by failing to record certain welding procedures and to retain such records whenever the procedures were used. In addition, it alleged that Columbia violated 49 C.F.R. § 192.227 by failing to ensure that welders were qualified in accordance with industry standards. Specifically, the Notice alleged that Columbia installed approximately 8,500 feet of new pipe in 2003 but failed to produce records of the welding procedures used or the qualification records of the welders performing the welds. Respondent failed to produce any records or documentation demonstrating compliance. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. §§ 192.225(a-b) by failing to record welding procedures and to retain such records whenever the procedures were used and violated 49 C.F.R. § 192.227 by failing to ensure that welders were properly qualified.

Item 8: The Notice alleged that Respondent violated 49 C.F.R. §§ 192.459 and 192.465(a), which state, in relevant part:

§ 192.459 External corrosion control: Examination of buried pipeline when exposed.

Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion must be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion requiring remedial action under §§ 192.483 through 192.489 is found, the operator shall investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

§ 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of Sec. 192.463. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.459 by failing to examine buried pipe that has been exposed in order to look for evidence of external corrosion. Specifically, the Notice alleged that Columbia had exposed sections of its P2 pipeline in 2003 but could not provide records to show that the exposed pipe had been examined for evidence of corrosion. The Notice also alleged that Respondent violated 49 C.F.R. § 192.465(a) by failing to test each pipeline that was under cathodic protection at least once each calendar years, but with intervals not exceeding 15 months, to determine whether the cathodic protection was adequate. Specifically, the Notice alleged that Columbia was unable to provide records showing that

annual cathodic protection surveys of approximately 20,300 feet of the KC-20 pipeline and the Knox Compressor Station piping were completed in 2001, 2002 or 2003. At the time of the inspection, Respondent advised that the affected section of KC-20 pipeline and the Knox Compressor Station had been recently added to the local district's responsibilities and that it had not yet completely addressed cathodic protection issues.⁵ Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. §§ 192.459 and 192.465(a) by failing to examine exposed pipe and to test pipe for cathode protection, as described above.

Item 9: The Notice alleged that Respondent violated 49 C.F.R. § 192.475(a-b), which states, in relevant part:

§ 192.475 Internal corrosion control: General.

(a) Corrosive gas may not be transported by pipeline, unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion.

(b) Whenever any pipe is removed from a pipeline for any reason, the internal surface must be inspected for evidence of corrosion

The Notice alleged that Respondent violated 49 C.F.R. § 192.475(a-b) by transporting corrosive gas without investigating the corrosive effect of the gas and taking steps to minimize internal corrosion. Specifically, the Notice alleged that Columbia transported untreated "wet" gas from production wells but was unable to provide records showing that it had investigated the corrosive effect of the gas or had taken steps to minimize internal corrosion. It further alleged that the company had removed sections of the P2 pipeline in 2003 but that it was unable to provide records showing that it had examined the internal surface of such pipe for evidence of internal corrosion. Respondent failed to provide any evidence rebutting these allegations. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.475(a-b) by transporting corrosive gas without investigating the corrosive effect of the gas and by removing sections of the P2 pipeline without showing that it had examined the internal surface of the pipe for internal corrosion.

Item 10: The Notice alleged that Respondent violated 49 C.F.R. § 192.5, which states, in relevant part:

§ 192.5 Class locations.

(a) This section classifies pipeline locations for purposes of this part. The following criteria apply to classifications under this section.

(1) A "class location unit" is an onshore area that extends 220 yards (200 meters) on either side of the centerline of any continuous 1-mile (1.6 kilometers) length of pipeline.

(2) Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

(b) Except as provided in paragraph (c) of this section, pipeline locations are classified as follows:

(1) A Class 1 location . . .

⁵ Violation Report, at Paragraph 14b.

- (2) A Class 2 location . . .
- (3) A Class 3 location . . .
- (4) A Class 4 location

The Notice alleged that Respondent violated 49 C.F.R. § 192.5 by failing to determine class locations for its pipeline system. Specifically, it alleged that Columbia was unable to produce records showing the class locations of its gathering and pipeline facilities. Respondent submitted evidence showing that it had undertaken class location studies subsequent to the inspection. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.5 by failing to determine class locations for its pipeline system.

Item 11: The Notice alleged that Respondent violated 49 C.F.R. §192.243, which states, in relevant part:

§ 192.243 Nondestructive testing.

(a) Nondestructive testing of welds must be performed by any process, other than trepanning, that will clearly indicate defects that may affect the integrity of the weld.

(b) Nondestructive testing of welds must be performed:

- (1) In accordance with written procedures; and
- (2) By persons who have been trained and qualified in the established procedures and with the equipment employed in testing.

(c) . . .

(f) When nondestructive testing is required under § 192.241(b), each operator must retain, for the life of the pipeline, a record showing by milepost, engineering station, or by geographic feature, the number of girth welds made, the number nondestructively tested, the number rejected, and the disposition of the rejects.

The Notice alleged that Respondent violated 49 C.F.R. § 192.243 by failing to perform nondestructive testing (NDT) of welds by persons who were properly qualified. Specifically, it alleged that Columbia was unable to provide qualification records for the NDT technicians who tested the welds on approximately 8,500 feet of new pipeline installed in 2003. The Notice also alleged that the company failed to retain, for the life of the pipeline, NDT records showing by milepost, engineering station, or other geographic feature, the number of girth welds made, the number nondestructively tested, the number rejected, and the disposition of the rejects. Specifically, the Notice alleged that for the new pipe installed in 2003, Columbia's records lacked specificity as to the milepost, engineering station, geographic feature, the number of girth welds made, the number nondestructively tested, the number rejected and the disposition of the rejects.

Respondent failed to produce any records or documentation demonstrating compliance. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.243 by failing to perform NDT of welds by persons who were properly qualified and by failing to maintain adequate NDT records.

Item 12: The Notice alleged that Respondent violated 49 C.F.R. § 192.731(a), which states:

§ 192.731 Compressor stations: Inspection and testing of relief devices.

(a) Except for rupture discs, each pressure relieving device in a compressor station must be inspected and tested in accordance with §§ 192.739 and 192.743, and must be operated periodically to determine that it opens at the correct set pressure.

The Notice alleged that Respondent violated 49 C.F.R. § 192.731(a) by failing to inspect and test each pressure relieving device in a compressor station in accordance with §§ 192.739 and 192.743. Specifically, the Notice alleged that Columbia was unable to provide records showing that the relief devices at the company's Knox Compressor Station had been inspected and tested in years 2001, 2002, and 2003. Respondent failed to submit any evidence rebutting the allegations in the Notice. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.731(a) by failing to inspect and test each pressure relieving device in a compressor station in accordance with §§ 192.739 and 192.743.

Item 13: The Notice alleged that Respondent violated 49 C.F.R. § 192.731(c), which states:

§ 192.731 Compressor stations: Inspection and testing of relief devices.

(a) . . .

(c) Each remote control shutdown device must be inspected and tested at intervals not exceeding 15 months, but at least once each calendar year, to determine that it functions properly.

The Notice alleged that Respondent violated 49 C.F.R. § 192.731(c) by failing to inspect and test, at intervals not exceeding 15 months but at least once each calendar year, each remote control shutdown device to determine that it functioned properly. Specifically, the Notice alleged that Columbia was unable to provide records showing that each emergency shutdown system (ESD) at the Knox Compressor Station had been inspected and tested in 2002. At the hearing, Respondent failed to produce any records or documentation demonstrating compliance. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.731(c) by failing to inspect and test ESD devices at intervals not exceeding 15 months, but at least once each calendar year.

Item 14: The Notice alleged that Respondent violated 49 C.F.R. § 192.736, which states, in relevant part:

§ 192.736 Compressor stations: Gas detection.

(a) Not later than September 16, 1996, each compressor building in a compressor station must have a fixed gas detection and alarm system . . .

(c) Each gas detection and alarm system required by this section must be maintained to function properly. The maintenance must include performance tests.

The Notice alleged that Respondent violated 49 C.F.R. § 192.736 by failing to maintain each gas detection and alarm system in a compressor building so that they functioned properly, including through performance testing. Specifically, the Notice alleged that Columbia was unable to provide records showing that the gas detection and alarm system at the Knox Compressor Station had been performance tested in 2002. At the hearing, Respondent failed to produce any records or documentation demonstrating compliance. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.736 by failing to maintain each gas detection and alarm system in a compressor building so that it functioned properly, including through performance testing.

Item 15: The Notice alleged that Respondent violated 49 C.F.R. § 192.709(a), which states:

§ 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

- (a) The date, location, and description of each repair made to pipe (including pipe-to-pipe connections) must be retained for as long as the pipe remains in service.

The Notice alleged that Respondent violated 49 C.F.R. § 192.709(a) by failing to maintain records showing the date, location, and description of each repair made to pipe and to retain such records for as long as the pipe remains in service. Specifically, the Notice alleged that Columbia was unable to provide records showing what repairs had been made on its gathering and transmission pipeline sections in years 2001, 2002 and 2003. Respondent failed to submit any evidence rebutting the allegations in the Notice. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.709(a) by failing to maintain records showing the date, location, and description of each repair made to its gathering and transmission pipeline sections in years 2001, 2002 and 2003.

Item 16: The Notice alleged that Respondent violated 49 C.F.R. § 192.481(a), which states:

§ 192.481 Atmospheric corrosion control: Monitoring.

- (a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months
Offshore	At least once each calendar year, but with intervals not exceeding 15 months

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(a) by failing to inspect, at least once every three years but with intervals not exceeding 39 months, each of its onshore pipelines or portions of its pipelines exposed to the atmosphere for evidence of atmospheric corrosion. Specifically, the Notice alleged that Columbia was unable to provide records showing that it had conducted such inspections in years 2001, 2002, 2003 or 2004. Respondent failed to submit any evidence rebutting the allegations in the Notice. Accordingly, upon consideration of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(a), as Respondent failed to inspect, at least once every three years but with intervals not exceeding 39 months, each of its onshore pipelines or portions of its pipelines exposed to the atmosphere for evidence of atmospheric corrosion.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. §60122, Respondent is subject to a 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.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of a civil penalty, I 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 violations of 49 C.F.R. Part 192.

Item 1 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.614, for Respondent's failure to identify a current list of persons who normally engage in excavation activities in the areas in which the company's pipelines are located. Based on a demonstration of regulatory compliance during the hearing, this allegation of violation is withdrawn. Accordingly, the related proposed civil penalty is withdrawn.

Item 2 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.615(c), for Respondent's failure to establish and maintain liaison with appropriate fire, police, and other public officials. An objective of this regulation is to assure that responders who could be involved in an emergency are prepared to recognize and deal with such situation in an expeditious and safe manner. When an operator fails to establish and maintain liaison, the proper procedures and techniques to follow may not be clear to those responsible for responding to a natural gas pipeline emergency. Respondent has not shown any circumstance that would have prevented or justified its failure to maintain records of its liaison activities with public

officials during the years 2002 and 2003. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 3 of the Notice proposed a civil penalty of \$10,000 for violation of 49 C.F.R. § 192.619, for Respondent's operations of a steel pipeline for which it could not substantiate that it had established an appropriate MAOP. The penalty was also proposed for Respondent's failure to provide records to demonstrate that over-pressure protection devices had been installed on each pipe segment to prevent exceeding the MAOP. Respondent did not contest the civil penalty but sought a Waiver of Compliance for Item 3.

Columbia submitted a Petition for Waiver (now referred to as a special permit) on June 8, 2005, seeking relief from the requirements of § 192.619 and asserting that it did not have all the data and records needed to establish MAOP using the methods prescribed in the regulations. PHMSA issued Columbia's successor, Chesapeake, a special permit on July 6, 2007. The permit allows Chesapeake to use alternate methods to establish MAOPs for its regulated pipeline segments.

With the special permit, Chesapeake will achieve compliance with respect to this violation. Nevertheless, the company's post-inspection corrective action does not justify reducing the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000.

Item 4 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.705(a-b), for failing to conduct patrols of its transmission pipeline within the required time periods during years 2002 and 2003 and by exceeding the maximum intervals between patrols in those years. Respondent did not contest the civil penalty amount but provided a spreadsheet to demonstrate how it will keep patrol records in the future. Pipelines must be patrolled to observe surface conditions for indications of leaks, construction activity, and other factors affecting safety and operation and for ensuring against pipeline encroachments. Maintaining a system of inspection ensures reasonable promptness in the detection of all surface conditions on and adjacent to the pipeline right-of-way that could affect the safe operation of the pipeline. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 5 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.706, for Respondent's failure to conduct leakage surveys at intervals not exceeding 15 months but at least once each calendar year. Verification that leak surveys are being properly conducted is an essential requirement to the safe operation of a pipeline. Without performing leakage surveys at the required intervals, a leak may not be detected and present a potentially hazardous situation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 6 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.745(a), for Respondent's failure to inspect and partially operate transmission line valves on its pipeline that might be required during an emergency, at intervals not exceeding 15 months but at least

once each calendar year. Respondent also failed to provide a valve list or designate alternative valves for emergency use. These valves can be critical during an emergency. Inoperative or malfunctioning valves may delay appropriate emergency response, thereby exposing the public and the environment to greater risks of injury and damage. Respondent did not contest the civil penalty but provided a spreadsheet to demonstrate how it will keep valve maintenance records in the future. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 8 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.459, for Respondent's failure to examine buried pipe that had been exposed in order to look for evidence of external corrosion, and for violation of 49 C.F.R. § 192.465(a), for Respondent's failure to test each pipeline that was under cathodic protection at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection was adequate. Proper documentation includes test protocols that have been developed to measure corrosive constituents and documented analysis of the tests results. Conducting timely evaluations of exposed areas of buried pipeline for evidence of corrosion is a key part of pipeline surveillance because washouts and other circumstances that expose buried pipelines may involve damage to or deterioration of the coating. The risk of corrosion on the pipeline significantly increases without proper cathodic protection systems. Preventive maintenance is critical to the safety of the public, environment and property. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 10 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.5, for Respondent's failure to determine class locations for its pipeline system. Respondent provided evidence that it had undertaken class location studies subsequent to the OPS inspection. Most of Respondent's pipelines that fall under 49 CFR Part 192 are in populated areas. It is essential that these pipelines be adequately protected against pipeline failures caused by overpressure or other causes. Class locations are necessary to determine the MAOP of pipelines. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 12 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.731(a), for Respondent's failure to inspect and test each pressure relieving device in a compressor station in accordance with §§ 192.739 and 192.743. It is critical to maintain each pressure relieving device in a compressor station to ensure that all relief devices are properly functioning and to prevent accidents. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 13 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.731(c), for Respondent's failure to inspect and test, at intervals not exceeding 15 months but at least once each calendar year, each remote control shutdown device to determine that it functions properly. Respondent did not contest the civil penalty but provided a form to demonstrate how it will keep compressor station ESD test records in the future. This regulation provides safety precautions that minimize the risk of accident or injury to human life, the environment, and property during an emergency. Documentation is essential to show that Respondent has inspected and properly tested each ESD system. Accordingly, having reviewed the record and

considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 14 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.736, for Respondent's failure to maintain gas detection and alarm systems in a compressor building so that they function properly, including through performance testing. Respondent did not contest the proposed civil penalty but provided a form to demonstrate how it will keep compressor station gas detection and alarm system test records in the future. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000 for this violation.

Item 15 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.709(a), for Respondent's failure to maintain records showing the date, location, and description of each repair made to pipe and to retain such records for as long as the pipe remains in service. Respondent did not contest the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Item 16 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.481(a), for Respondent's failure to inspect each of its onshore pipelines that were exposed to the atmosphere for evidence of atmospheric corrosion at least once every three years, but with intervals not exceeding 39 months. Respondent provided samples of two forms it will use to demonstrate how it will record atmospheric corrosion monitoring in the future. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$65,000**.

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; (405) 954-8893.

Failure to pay the \$65,000 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 1 through 16 in the Notice for violations of 49 C.F.R. Part 192. Respondent submitted information to show that it had addressed Items 1-6, 9-10, 12-14, and 16 in the Proposed Compliance Order. The Director has

reviewed this information and indicated that Chesapeake has satisfactorily completed the following actions specified in the Proposed Compliance Order:

49 C.F.R. § 192.615(c) **(Item 2)** - Respondent submitted evidence of liaison activities with fire, police and other appropriate officials and scheduled additional meetings.

49 C.F.R. § 192.619 **(Item 3)** - PHMSA issued Respondent a Special Permit on July 6, 2007, which allows an alternate method of establishing MAOP.

49 C.F.R. § 192.705(a-b) **(Item 4)** - Respondent provided a pipeline patrol and inspection schedule to demonstrate how it will accomplish and keep patrol records in the future.

49 C.F.R. § 192.706 **(Item 5)** - Respondent provided a leak survey schedule to demonstrate how it will accomplish and record leakage surveys.

49 C.F.R. § 192.745(a) **(Item 6)** - Respondent provided a list of valves that may be required in an emergency, an inspection schedule and a spreadsheet to show how it will accomplish and record valve maintenance.

49 C.F.R. § 192.475(a-b) **(Item 9)** - Respondent provided an Internal Corrosion Monitoring Plan that will be used to undertake internal corrosion studies and ensure that all future pipeline internal exposures will be examined for internal corrosion.

49 C.F.R. § 192.5 **(Item 10)** - Respondent provided evidence that it has undertaken class location studies.

49 C.F.R. §192.731(a) and (c) and 192.736 **(Items 12, 13, and 14)** - Respondent provided an ESD Facilities Inspection and Test Data Report Data Entry Form to demonstrate how it will accomplish and record compressor station relief device, emergency shutdown, and gas detection and alarm system tests.

49 C.F.R. § 192.481(a) **(Item 16)** - Respondent provided samples of two forms it will use to perform and record atmospheric corrosion monitoring.

Accordingly, since compliance has been achieved with respect to these violations, the compliance terms are not included in this Order.

As for the remaining Items, under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent, now known as Chesapeake Appalachia, LLC, is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Chesapeake must -

1. With regard to **Item 7**, establish a process to ensure that welding procedures are recorded in detail, including the results of the qualifying tests. These records must be retained and followed whenever the procedures are used, in accordance with 49 C.F.R. § 192.225(a-b).
2. With regard to **Item 8**, establish a process to ensure that when any portion of a buried pipeline is exposed, the exposed portion is examined for evidence of external corrosion. Ensure that all cathodic protection systems are tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463.
3. With regard to **Item 11**, establish a process to ensure that all NDT records properly document that NDT testing of welds are performed by persons who have been trained and qualified. Establish procedures to ensure that Chesapeake retains, for the life of the pipeline, a record showing by milepost, engineering station, or by geographic feature, the number of girth welds made, the number nondestructively tested, the number rejected, and the disposition of the rejects, in accordance with 49 C.F.R. § 192.243.
4. Establish a process to ensure that all records are maintained on Chesapeake's gathering and transmission pipeline sections subject to 49 C.F.R. Part 192 for the specified period. Chesapeake's records must include the date, location, and description of each repair made to pipe (including pipe-to-pipe connections) and must be retained for as long as the pipe remains in service, in accordance with 49 C.F.R. §192.709.
5. Within 90 days of the date of the Final Order, submit documentation and evidence of completion of these actions to Ms. Linda Daugherty, Director, OPS, Southern Region, Pipeline and Hazardous Materials Safety Administration, 233 Peachtree Street, Suite 600, Atlanta, GA 30303.
6. Maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. Costs must 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 extend the period for complying with any of the required items if Chesapeake requests an extension and adequately justifies the reasons for the extension.

Failure to comply with this Order may result in 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, Chesapeake has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Chesapeake's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall be effective upon receipt.

By: Jeffrey D. Wiese ESD

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

08-12-2009

Date Issued