

**FEB 23 2010**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7009 1410 0000 2472 9949]**

Mr. Joseph E. O'Brien  
President  
Equitable Production Company  
225 North Shore Drive  
Pittsburgh, PA 15212-5861

**RE: CPF No. 2-2007-1005**

Dear Mr. O'Brien:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions to be taken to comply with the pipeline safety regulations. When the terms of the compliance order are completed, as determined by the Director, Southern Region, this enforcement action will be closed. Service of this Final Order is complete upon satisfaction of the requirements in 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. Robert J. Cooper, Director, Facilities and Technical Training, Equitable Production  
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**

_____	)	
<b>In the Matter of</b>	)	
	)	
<b>Equitable Production Company,</b>	)	<b>CPF No. 2-2007-1005</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

On May 23-24, 2006, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site safety inspection of the facilities and records of Equitable Production Company (Equitable or Respondent) at Big Stone Gap, Virginia, for its Clintwood, Virginia pipeline facilities. As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Equitable, by letter dated April 9, 2007, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent committed violations of 49 C.F.R. Part 192 and that it take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated May 10, 2007 (Response). Respondent did not contest the allegations of violation, but expressed its intent to comply with the corrective actions as proposed in the compliance order. Respondent did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

In its Response, Equitable did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.705(b), which states:

- § 192.705 Transmission lines: Patrolling.**
  - (a) . . . .

(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	7 <sup>1/2</sup> months; but at least twice each calendar year.	15 months; but at least once each calendar year.
3	4 <sup>1/2</sup> months; but at least four times each calendar year.	7 <sup>1/2</sup> months; but at least twice each calendar year.
4	4 <sup>1/2</sup> months; but at least four times each calendar year.	4 <sup>1/2</sup> months; but at least four times each calendar year.

The Notice alleged that Respondent's patrolling records show that in 2005 it exceeded maximum interval for conducting Class 3 highway crossing patrols. Specifically, the Notice alleged that Respondent failed to complete the required patrols within the required interval in 2005.

Equitable's records show the highway crossing patrols were conducted on the following dates:

<u>2004 Year</u>	<u>2005 Year</u>	<u>2006 Year</u>
11-01-04	05-06-05	01-13-06
	06-06-05	04-25-06
	12-21-05	05-12-06.

Maintaining a system of inspection insures reasonable promptness in the detection of all surface conditions on and adjacent to the transmission line right-of-way. Patrolling alerts the operator to indications of any and all factors affecting the safe operation of the pipeline. The purpose of this regulation is to locate any pipeline leaks and to detect excavation activity that could affect the safe operation of the pipeline. As Equitable has not contested these allegations, I find that Respondent violated 49 C.F.R. § 192.705(b) by exceeding the maximum interval for conducting patrols of highway crossings for pipelines in Class 3 locations during the 2005 calendar year.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a Compliance Order with respect to Item 1 in the Notice for violations of 49 C.F.R. Part 192. 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 is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

1. In regard to Item Number 1 of the Notice, Equitable Production Company must establish and document a process to ensure that routine patrolling of the pipeline system is performed, as required by 49 C.F.R. § 192.705(b).
2. Equitable Production Company must provide documentation to show completion of the above action within 90 days of receipt of this Final Order.
3. Equitable Production Company shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Linda Daugherty, Director, Southern Region, Pipeline and Hazardous Materials Safety Administration, 233 Peachtree Street, Suite 600, Atlanta, GA 30303. Costs shall 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 Respondent demonstrating good cause for an 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.

### **WARNING ITEM**

With respect to Item 2, the Notice alleged probable violations of 49 C.F.R. Part 192, but did not propose a civil penalty or compliance order for that item. Therefore, it is considered to be a warning item. The warning was for:

49 C.F.R. § 192.603(b), (Notice Item 2) — Respondent's alleged failure to keep records necessary to administer the procedures for its annual monitoring of cathodic protection. Specifically, the Notice alleged that Respondent's records indicated that monitoring was performed in July 2004 and June 2005. However,

the June 2005 documentation consisted only of pictures of the digital meter pipe-to-soil (p/s) reading and the half-cell at the test station location. The Notice also alleged that Respondent failed to maintain its records in accordance with its procedures for documentation and the completion of company forms.

Equitable presented information in its Response showing that it had taken certain actions to address the cited items. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 192.603(b) (Notice Item 2) have occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation for any of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The terms of the Final Order, including any required corrective action, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall be effective upon receipt.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued