

NOV 5 2010

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

**Re: CPF 2-2009-5001**

Dear Mr. Felt:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$22,500. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon 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. Doug Belden, Vice President and General Manager-Operations, Colonial Pipeline Co.  
Mr. Wayne Lemoi, Director, Southern Region, PHMSA

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0043 9436]**

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

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<b>In the Matter of</b>	)	
	)	
<b>Colonial Pipeline Company,</b>	)	<b>CPF No. 2-2009-5001</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

Between November 17 and December 12, 2008, pursuant to 49 U.S.C. § 60117, a representative of 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 North Carolina, Mississippi, Alabama, and Georgia. Based in Alpharetta, Georgia, Colonial Pipeline delivers gasoline, home heating oil, aviation fuel and other refined petroleum products throughout the Southern and Eastern United States.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated April 8, 2009, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 195.573(e) and 195.401(b) and proposed assessing a civil penalty of \$22,500 for the alleged violation.

Respondent responded to the Notice by letter dated May 11, 2009 (Response). The company did not contest the allegations of violation but provided an explanation of its actions. Respondent did not request a hearing and therefore has waived its right to one.

**FINDING OF VIOLATION**

In its Response, Colonial did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. §§ 195.573(e) and 195.401(b), which state:

**§ 195.573 What must I do to monitor external corrosion control?**

(a) . . . .

(e) *Corrective action.* You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).

**§ 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.

The Notice alleged that Respondent violated 49 C.F.R. §§ 195.573(e) and 195.401(b) by failing to take actions within a reasonable time to correct identified deficiencies in corrosion control. Specifically, the Notice alleged that Colonial failed to take corrective actions to resolve cathodic protection (CP) deficiencies reflected in the company's monitoring records for Alabama Lines 401-01, Line 402-01, Line 403-01, and Line 403-02 for the 2006 to 2008 calendar years.

In its Response, Colonial did not contest the allegations of violation but explained that it had an ongoing corrosion control program in place that addressed test readings of CP levels that did not meet one or more of its criteria. Colonial contended that it adhered to the continuing use of successfully applied criteria on its pipeline system, referenced in the National Association of Corrosion Engineers International Standard RP 0169.

Respondent explained that following the identification of a large number of deficient areas in Alabama in 2006, it investigated, tested, prioritized and developed corrective actions to address the risks to its pipeline in a timely manner. Respondent also explained that extensive CP upgrade and recoating projects were completed during 2007 and 2008 to address CP deficiencies on its pipelines throughout Alabama, including at locations 401-01, 402-01, 403-01, and 403-02 cited in the Notice. Respondent advised that re-surveys performed in February 2008, after the CP upgrade and recoating projects, confirmed that locations 401-01, 402-01, 403-01, and 403-02 were in fact remediated. Colonial also advised that remediation of location 401-01 was completed and met its criteria for CP by September 2008. Colonial contended that all the remediation work was completed prior to the inspection by PHMSA in November-December of 2008.

Colonial stated that many sub-standard CP areas are addressed each year along Colonial's pipelines, but that the time required to determine if a cathodic protection deficiency exists (discovery of a deficiency) and make repairs varies, based on the conditions at each site and the number of deficiencies discovered in a particular year. Colonial advised that it had increased the number of employees assigned to evaluate CP systems and had realigned its corrosion control employees with the maintenance employees and contractors responsible for making repairs.

Respondent did not contest the allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. §§ 195.573(e) and 195.401(b) by failing to take corrective actions within a reasonable time to correct identified deficiencies in corrosion control.

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

### **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. The Notice proposed a total civil penalty of \$22,500 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$22,500 for Respondent's violation of 49 C.F.R. §§ 195.573(e) and 195.401(b), for failing to take corrective actions within a reasonable time to remedy identified deficiencies in its corrosion control. Corrosion is one of the most threatening conditions to the integrity of pipelines, and, if left uncorrected, can result in pipeline failures. An adequate level of cathodic protection of buried pipelines is required to arrest corrosion and prevent rupture. Respondent did not contest this allegation of violation. While Colonial has presented information regarding the various steps it has taken to implement an effective CP program, it has not provided any basis for reducing the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$22,500 for violations of 49 C.F.R. §§ 195.573(e) and 195.401(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 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. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$22,500 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.

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, 2<sup>nd</sup> 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.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued