

## **NOTICE TO COLONIAL PIPELINE**

RE: Emergency Enforcement Stay of Operator Qualification and Employment Testing Requirements for Colonial Pipeline Affected by Network Attack

In light of the Network Attack suffered by Colonial Pipeline on Friday, May 7, 2021 and to avoid potential energy supply disruptions to military and other facilities, reliant on gasoline, diesel, jet fuel and other refined petroleum products, PHMSA recognizes that the Colonial Pipeline may be faced with resource constraints while engaged in response and recovery efforts. Limited resources and the exigencies of the response and recovery effort may require service by pipeline personnel that may not fully meet federal operator qualification (OQ) and employment drug testing requirements.

Federal regulations in Title 49, Code of Federal Regulations (C.F.R.), Subpart G of Part 195, require operators to ensure, through evaluation or training, that each worker performing operation or maintenance activities is either qualified under the operator's written OQ program or has demonstrated capability to perform assigned functions. Likewise, the regulations require pre-employment and random drug testing for workers who perform certain activities, known as "covered functions," under 49 C.F.R. § 199.105.

In light of the response and recovery efforts, this Notice advises Colonial Pipeline that PHMSA does not intend to take any enforcement action relating to noncompliance with operator qualification requirements found in 49 C.F.R. §§ 195.501-195.509 or pre-employment and random drug testing requirements found in 49 C.F.R. § 199.105(a) and (c) arising from the use of personnel for pipeline activities related to response and recovery solely in connection with the Network Attack. If Colonial determines it cannot comply with these requirements because of limited resources, it should notify James Urisko, Director, Southern Region, PHMSA, and maintain documentation of instances in which it is unable to fully comply with these requirements. Please note that this enforcement stay applies only to those areas where Colonial is faced with limited resources as a result of the impacts of the Network Failure. Irrespective of any relief granted herein, Colonial Pipeline is not relieved from acting reasonably by using trained, non-impaired workers to perform operations and maintenance tasks.

PHMSA takes this temporary action while we continue to monitor and engage in the recovery efforts following the Network Attack. This document is effective on the date of this Notice, and will remain in effect for 14 days, unless PHMSA determines in writing that it should be extended. Nothing in this letter prohibits PHMSA from rescinding this stay and enforcing the incorporated provisions if it determines that a significant safety issue or other circumstance warrants doing so, including finding there is no longer a need for the stay.

Furthermore, Colonial Pipeline remains responsible for the safe operation of its system and nothing in this Notice relieves Colonial from compliance with the applicable provisions of the federal pipeline safety regulations not cited above.

ISSUED MAY 9, 2021 IN WASHINGTON, D.C.



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Alan K. Mayberry

Associate Administrator for Pipeline Safety