

March 25, 2015

Mr. Nelson Martinez
President and Chief Executive Officer
CITGO Petroleum Corporation
1293 Eldridge Parkway
Houston, TX 77077-1670

Re: CPF No. 4-2014-5010

Dear Mr. Martinez:

Enclosed please find the Final Order issued in the above-referenced case. It makes one finding of violation, assesses a civil penalty of \$123,800, and specifies actions that need to be taken by your subsidiary, CITGO Pipeline Company, 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, Southwest Region, this enforcement action will be closed. 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. Rodrick Seeley, Director, Southwest Region, OPS
Mr. Glenn Hilman, Terminal Facilities and Pipeline, CITGO Petroleum Corporation

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

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| In the Matter of |) | |
| |) | |
| CITGO Pipeline Company, |) | |
| a subsidiary of CITGO Petroleum Corporation, |) | CPF No. 4-2014-5010 |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

On October 29, 2012, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), initiated an investigation of an accident involving the pipeline system of CITGO Pipeline Company (CITGO or Respondent). CITGO is a subsidiary of CITGO Petroleum Corporation, which owns and operates oil refineries and related pipeline facilities in Texas, Louisiana, and Illinois, with a daily refining capacity of 750,000 barrels.¹

The investigation arose out of a crude-oil release that occurred on October 18, 2012, at CITGO's Sour Lake Tank Farm in Sour Lake, Texas. At the time of the accident, a six-inch surge pipeline at the facility was not in service, but several areas of internal corrosion had caused the pipeline to erode and ultimately fail. The resulting accident resulted in approximately 718 barrels of crude oil being spilled at the Tank Farm.²

As a result of the investigation, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 24, 2014, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that CITGO had violated 49 C.F.R. § 195.402 and proposed assessing a civil penalty of \$123,800 for the alleged violation.

CITGO Petroleum Corporation responded to the Notice by letter dated May 28, 2014 (Response). The company did not contest the allegation of violation but provided information concerning the corrective actions CITGO had taken, submitted copies of its revised procedures, and requested that OPS reduce the proposed civil penalty. Respondent did not request a hearing

¹ <http://www.citgo.com/WebOther/CITGOforYourBusiness/CompanyProfile.pdf> (last accessed on November 26, 2014).

² Pipeline Safety Violation Report (Violation Report), (April 23, 2014) (on file with PHMSA), at 2.

and therefore has waived its right to one.

FINDING OF VIOLATION

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

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a),³ which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, the Notice alleged that CITGO failed to have a written alarm management plan to provide for effective controller response to “creep alarms.” The Notice further alleged that even though Respondent’s controller registered a creep alarm on October 18, 2012, he was unable to immediately respond to the release because CITGO had not instituted a written policy for handling such alarms. Instead, the controller waited until a second creep alarm sounded before contacting the field to investigate the dropping tank level.⁴

Respondent did not contest this allegation of violation, but provided several reasons why it thought the proposed civil penalty should be reduced. These arguments will be addressed in the “Assessment of Penalty” section below.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.

This finding of violation will be considered a prior offense in any subsequent enforcement action

³ The Notice also referenced 49 C.F.R. § 195.446(e), which states: “Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms....”

⁴ Violation Report, at 4.

taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 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; 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 \$123,800 for the violation cited above.

Item 2: The Notice proposed a civil penalty of \$123,800 for Respondent's violation of 49 C.F.R. § 195.402(a), for failing to prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. CITGO objected to the proposed civil penalty for several reasons. First, it argued that having a written process at the time of the accident for handling creep alarms would not have "prevented" the accident because the controller "had a reasonable basis to believe that the alarm had been triggered by the tank settling after being filled" and therefore no further action was warranted. Second, the company argued that the controller's "subsequent conduct to monitor the situation was consistent with his training." Last, CITGO contended that the leak was restricted to the tank containment area, had no adverse offsite impacts, and was appropriately addressed.⁵

I find that there are several reasons to impose the civil penalty as proposed. First, OPS discovered this violation; it was not self-reported by the operator. Second, the operator failed to take appropriate action prior to the accident to comply with the regulatory requirement by having an effective written procedure in place and this noncompliance increased the consequences of the release. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$123,800 for violation of 49 C.F.R. § 195.402(a).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$123,800**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to 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 (AMK-325), Federal Aviation Administration, Mike

⁵ Response, at 2-3.

Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$123,800 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 district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2 in the Notice for violation of 49 C.F.R. § 195.402(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids 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:

1. With respect to the violation of § 195.402(a) (**Item 2**), Respondent must amend its procedures to include in its written manual of procedures a definition of creep alarms and state the actions that must be taken in responding to this kind of alarm. The procedure must be sent to the Director, Southwest Region, for review and approval, within 30 days of receiving this Final Order.
2. It is requested that CITGO maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R.M. Seeley, Director, Southwest Region, OPS. 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.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 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 ITEMS

With respect to Items 1 and 3, the Notice alleged probable violations of 49 C.F.R. Parts 199 and 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 199.105(b) (**Item 1**) — Respondent’s alleged failure to conduct post-accident drug and alcohol tests on the controller as soon as possible, but no later than 32 hours after the accident; and

49 C.F.R. § 195.402(a) (**Item 3**) — Respondent’s alleged failure to prepare and follow a manual of written procedures for handling abnormal operations and emergencies by failing to complete its assessment of the potential for corrosion on its low flow/dead leg pipeline at the Sour Lake tank farm.

CITGO presented information in its Response showing it had taken certain actions to address the cited items and objecting to OPS’ position that the company had failed to perform post-accident drug and alcohol testing on its controller following the accident. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243 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, 2nd 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 this 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. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued