

**DECEMBER 31, 2012**

Mr. Alejandro Granado  
Chairman, President, and CEO  
CITGO Petroleum Corporation  
1293 Eldridge Parkway  
Houston, TX 77077-1670

**Re: CPF No. 2-2012-6011**

Dear Mr. Granado:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$42,300, and specifies actions that need to be taken by CITGO Petroleum Corporation 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, 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. Gustavo Velasquez, Vice President Supply and Marketing, CITGO  
Mr. Bruce Adams, Southeast Regional Terminal Facilities Manager, CITGO  
Mr. Wayne T. Lemoi, Director, Southern Region, OPS  
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

**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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<b>In the Matter of</b>	)	
	)	
<b>CITGO Petroleum Corporation,</b>	)	<b>CPF No. 2-2012-6011</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

From March 28-30, 2012, 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 CITGO Petroleum Corporation (CITGO or Respondent) near Fort Lauderdale, Florida. The subject of the inspection was CITGO’s 1.2-mile, 8-inch Line 123A, which transports hazardous liquids from CITGO’s Port Everglades Terminal to the Fort Lauderdale-Hollywood International Airport.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated May 25, 2012, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice).<sup>1</sup> In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that CITGO had violated 49 C.F.R. §§ 195.505, 195.573 and 195.575 and proposed assessing a civil penalty of \$42,300 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

CITGO responded to the Notice by letter dated June 21, 2012 (Response). CITGO contested two of the allegations, did not contest one, and offered additional information in response to the Notice. Respondent did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.505(h), which states:

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<sup>1</sup> The Notice was addressed to “CITGO Petroleum Corporation (Terminals).”

**§ 195.505 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) . . . .

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities;

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(h) by failing to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities. Specifically, the Notice alleged that CITGO records showed that a particular employee was qualified to perform its operator qualification (OQ) *Covered Task 17 – Provide Temporary Marking of Buried Pipeline Prior to Excavation*. Step 5 of *Sub-task 17.1 (Locate Line)* called for the inspector to check the operation of the locating equipment. When the PHMSA inspector asked the employee to demonstrate this step, he stated that he had never performed Step 5 and had never been trained to operate line locating equipment.<sup>2</sup>

In its Response, CITGO contested the allegation, arguing that the employee in question did not have the training to perform this step of the task and that therefore he was never asked to locate lines where the use of line locating equipment was necessary. CITGO submitted the Operator Qualification Evaluation Form for this employee, which showed that the task of “Check locating equipment operation” was not applicable.<sup>3</sup> CITGO stated that this employee was qualified to perform other tasks relating to line location, but not this particular sub-task.

However, other CITGO records showed that this particular employee had indeed been evaluated for Covered Task 17, specifically including sub-task 17.1, and was deemed qualified to perform it.<sup>4</sup> In addition, the employee stated that when he is at an excavation site, he simply indicates to the excavator where the pipeline is using maps and permanent line markers instead of locating equipment, and that he requires hand digging and mandatory on-site CITGO inspection anytime excavation is to be performed near the pipeline. This conflicts with CITGO’s claim that this particular employee is not sent to perform line-location tasks.

Accordingly, after considering all of the evidence, I find that this particular CITGO employee had, in fact, been qualified to perform Covered Task 17.1 and that he did perform such task for Respondent. I further find that CITGO violated 49 C.F.R. § 195.505(h) by failing to provide training, as appropriate, to ensure that this individual had the necessary knowledge and skills to

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<sup>2</sup> In its Response, CITGO stated that “Check locating equipment operation” was actually Step 6 of Task 17.1. However, the evidence shows that “Check locating equipment operation” is listed as Step 6 on the “Operator Qualification Evaluation Form” but as Step 5 on the CITGO “Standard for Covered Task 17.” See Response, Attachment A, and Violation Report, Evidence for Violation 1. It is undisputed that the alleged violation related to the function of checking the operation of locating equipment.

<sup>3</sup> Response, Attachment A.

<sup>4</sup> Violation Report, Exhibit A.

perform the tasks in a manner that ensured the safe operation of pipeline facilities.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e), which states:

**§ 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).

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e) by failing to correct identified deficiencies in corrosion control as required by § 195.401(b). Specifically, the Notice alleged that CITGO failed to install electrical test leads at four locations as recommended by an April 2010 pipeline casing survey report.

Respondent did not contest this 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) by failing to correct identified deficiencies in corrosion control as required by § 195.401(b).

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.575(c), which states:

**§ 195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?**

(a) . . . .

(c) You must inspect and electrically test each electrical isolation to assure the isolation is adequate.

The Notice alleged that Respondent violated 49 C.F.R. § 195.575(c) by failing to inspect and electrically test each electrical isolation to assure the isolation is adequate. Specifically, the Notice alleged that from January 1, 2007, to March 30, 2012, CITGO did not test the electrical isolations at the four locations on Line 123A where it had not installed test leads, as discussed in Item 2 above.

In its Response, CITGO argued that this allegation of violation was redundant to the allegation in Item 2 discussed above, because the company could not have performed electrical isolation tests unless the test leads had been installed.<sup>5</sup> Because the company could not perform these tests without the test leads required by Item 2, CITGO argued that citing the company for the failure to conduct the tests was inequitable.

I disagree. The two regulations in question have different requirements: one requires corrective action in response to *identified deficiencies* in corrosion control, while the other requires testing of each electrical isolation. The failure to take corrective action by installing test leads does not exempt the company from the requirement to test each isolation. In addition, while the

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<sup>5</sup> Response at 2.

installation of electrical test leads would have provided one method for CITGO to conduct the tests required by § 195.575(c), other methods could be used. For example, CITGO could have tested the electrical isolation using a probe bar connected to the casing and a reeled wire connected to the nearest electrically-accessible pipe.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 195.575(c) by failing to inspect and electrically test each electrical isolation to assure the isolation is adequate.

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 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.<sup>6</sup> 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 \$42,300 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$13,700 for Respondent's violation of 49 C.F.R. § 195.505(h), for failing to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities. Respondent contested the allegation of violation, but I found that CITGO failed to provide training to ensure that a particular company employee could perform all of the sub-tasks associated with a particular covered task. Respondent did not offer any other arguments for a reduction or elimination of the proposed penalty. The careful administration of all facets of an operator qualification program is critical to ensuring the safe operation and maintenance of a pipeline system. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$13,700 for violation of 49 C.F.R. § 195.505(h).

**Item 2:** The Notice proposed a civil penalty of \$14,300 for Respondent's violation of 49 C.F.R. § 195.573(e), for failing to correct identified deficiencies in corrosion control as required by § 195.401(b). Respondent did not contest the allegation and did not offer any arguments in support of a reduction or elimination of the proposed penalty. Proactive corrosion

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<sup>6</sup> The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

control is critical for preventing pipeline accidents that could impact the public, the environment, or property. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$14,300 for violation of 49 C.F.R. § 195.573(e).

**Item 3:** The Notice proposed a civil penalty of \$14,300 for Respondent's violation of 49 C.F.R. § 195.575(c), for failing to inspect and electrically test each electrical isolation to assure the isolation is adequate. Respondent contested the violation, but did not offer any other arguments for a reduction or elimination of the proposed penalty. As discussed above, I found that the failure to take corrective action by installing test leads did not exempt the company from the requirement to also test for electrical isolation. The fact that Respondent failed to test locations where encased pipe had existed for years<sup>7</sup> suggests that CITGO saw no need to monitor such areas for potential corrosion. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$14,300 for violation of 49 C.F.R. § 195.575(c).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$42,300**.

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 (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$42,300 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 Items 1, 2, and 3 in the Notice for violations of 49 C.F.R. §§ 195.505(h), 195.573(e), and 195.575(c), respectively. 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. The Director has indicated that Respondent has reevaluated all line location

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<sup>7</sup> Violation Report at 15.

coordinators in the use of line locating equipment. Therefore, with respect to the violation of § 195.505(h) (**Item 1**), Respondent must, except for the steps required of *Sub-task 17.1, Locate Line*, re-evaluate and train each individual that CITGO requires to be operator qualified to perform OQ covered tasks in accordance with §§ 195.505, 195.509, and in accordance with the meaning of the term “evaluation” as defined in §195.503.

2. With respect to the violation of § 195.573(e) (**Item 2**), Respondent must install electrical test leads at the four pipeline casings on Line 123A, as recommended by the April 2010 pipeline casing survey report prepared by Mesa Corrosion Control, Inc.
3. With respect to the violation of § 195.575(c) (**Item 3**), Respondent must inspect and electrically test the following casings on Line 123A to assure electrical isolation from the carrier pipe:
  - Station 0+47 to 1+00 (SE 28<sup>th</sup> Street)
  - Station 53+38 to 54+18 (East of Perimeter Road)
  - Station 55+68 to 56+81 (East Service Road)
  - Station 63+21 to 63+59 (End of Service Road).
4. CITGO must provide written documentation of completion of the above compliance items to the Director within 60 days of receipt of the Final Order.
5. It is requested that CITGO maintain documentation of the safety improvements costs associated with fulfilling this Compliance Order and submit the total to the Director. 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 \$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, 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, 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. § 190.215. 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.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued