NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER

<u>OVERNIGHT EXPRESS DELIVERY</u>

August 30, 2024

Mr. Carlos Jordá
President and Chief Executive Officer
Citgo Pipeline Company
1289 Eldridge Parkway
Houston, Texas 77077

CPF 1-2024-033-NOPV

Dear Mr. Jordá:

From June 12, 2023 through November 7, 2023, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), conducted an integrated inspection of Citgo Pipeline Company's (Citgo) facilities in Sour Lake, Texas.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 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.

Citgo failed to follow its manual of written procedures. Specifically, Citgo failed to follow its *O&M Manual, Section J – Inspection and Maintenance,* dated 09/23/22 (OM – Section J) for conducting its annual firefighting extinguisher inspections for calendar years 2021 through 2023 pursuant to § 195.430(a).

Section 195.430(a) states "[e]ach operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be in proper operating condition at all times."

The OM – Section J, page J-37 stated in part "[t]he annual maintenance check includes, for example, a complete examination of all its part, cleaning, replacement or defective parts, reassembly, recharging and where appropriate, repressurization…Record the maintenance in the appropriate box located on the extinguisher label and on the permanent file by signing your initials followed by an X." Additionally, the OM – Section J included an annual maintenance checklist.

During the inspection, PHMSA requested records related to annual firefighting extinguisher inspections for calendar years 2021 through 2023 at Citgo's Sour Lake facilities. Citgo provided, *Cintas Fire Protection – Service Receipt Records,* dated 2020 – 2023 (Annual Fire Records). The Annual Fire Records, however, failed to include information required per the OM. The Annual Fire Records included a service receipt with the purchase bill amount to Citgo. The Annual Fire Records failed to include any inspections or checks related to the items listed in the annual maintenance checklist.

Therefore, Citgo failed to follow its manual of written procedures for conducting and documenting its annual firefighting extinguisher inspections for calendar years 2021 through 2023, in accordance with § 195.402(a).

2. § 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.

Citgo failed to conduct an annual review of its operations and maintenance manual at intervals not exceeding 15 months but at least once each calendar year. Specifically, Citgo failed to conduct an adequate review of its operations and maintenance manual in the appropriate time interval for calendar years 2020, 2021, and 2022.

During the inspection, PHMSA requested annual review records of the operations and maintenance manual for calendar years 2020 through 2022 at its Sour Lake facilities. Citgo provided the *Operations & Maintenance / Emergency Procedures Plans/ OQ Plan Review Record*, dated 12/15/22, 11/4/21, and 01/22/20. When PHMSA inquired about whether the annual review covers the Citgo integrity management manual as well as all incorporated by reference documents, Citgo discussed that the annual review only covers operations and maintenance, emergency plans, and operator qualification plans.

Citgo provided PHMSA with its *Integrity Management Program for Hazardous Liquid Pipelines – TPL-EPCC-LIMP,* dated 10/01/22 (LIMP). The LIMP stated that the "Review Cycle – 5 Years." The LIMP stated an incorrect frequency for review of its operations and maintenance manual, as LIMP is required to be a part of the operations and maintenance manual pursuant to § 195.402(c)(3) and therefore is subject to the review frequency of § 195.402(a).

Therefore, Citgo failed to conduct an adequate review of its operations and maintenance manual for calendar years 2020, 2021, and 2022, within the appropriate time interval of not exceeding 15 months but at least once each calendar year, in accordance with § 195.402(a).

3. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) ….

(c) *Maintenance and normal operations*. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) ….

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

Citgo failed to conduct periodic reviews of the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found as required by § 195.402(c)(13). Specifically, Citgo failed to conduct periodic reviews of the work done by operator personnel throughout calendar years 2020, 2021, and 2022.

During the inspection, PHSMA requested records related to § 195.402(c)(13) for calendar years 2020 through 2022 at its Sour Lake facilities. Citgo provided *Annual Review of Employee Performance,* dated 2020, 2021 and 2022 (Performance Reviews). Citgo's Performance Reviews, reviewed employee's job performance but did not provide a review of the effectiveness of the procedures, as required by § 195.402(c)(13). The Performance Reviews failed to indicate what procedure was reviewed by operator personnel in normal operation and maintenance tasks, when the task was completed, and what corrective actions were taken if any deficiencies were found.

Furthermore, Citgo's *OM Manual, Section A – Normal Operation and Maintenance Introduction,* dated 04/01/21 (OM – Section A) failed to include a process to periodically review the work done by the operator's personnel to determine the effectiveness of the procedures used in normal operation and maintenance and how to take corrective action where deficiencies are found in accordance with § 195.402(c)(13).

During the inspection, PHMSA requested Citgo's procedures regarding the § 195.402(c)(13) requirements and Citgo provided its OM – Section A. The OM – Section A, page A-4 stated in part:

> Area management shall annually review the work done by employees to determine the effectiveness of the procedures used in this manual relative to normal operations and maintenance. If deficiencies are found regarding an employee's work practices or failure to follow the procedures in this manual, management will take corrective actions to assure the quality of future work. This same review will be used to periodically evaluate the procedure itself to determine if its efficacy and safety remain suitable as prescribed. Management shall document these employee reviews through the Employee Development Plan (EDP) annual assessment process and/or they may utilize forms provided on SharePoint for this purpose.

The OM – Section A, however, failed to provide sufficient details, such as what method or process is used to evaluate the work of operations and maintenance personnel, what procedures are subject to this review or how procedures are selected, and how effectiveness is determined. During the inspection, Citgo did not provide further information on how the § 195.402(c)(13) form is completed, and did not provide additional details on the process, other than the form being included in the annual review of employee performance.

Therefore, Citgo failed to conduct periodic reviews of the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found in calendar years 2020, 2021 and 2022 in accordance with § 195.402(c)(13).

4. § 195.402 Procedural manual for operations, maintenance, and emergencies.

> **(a) ….**
>
> **(d) *Abnormal operation*. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:**
>
> **(1) ….**
>
> **(5) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.**

Citgo failed to conduct periodic reviews of operator personnel responses to determine the effectiveness of the procedures controlling abnormal operation and taking corrective actions where deficiencies are found as required by § 195.402(d)(5). Specifically, Citgo failed to conduct periodic reviews of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found in calendar years 2020, 2021, and 2022.

During the inspection, PHSMA requested records related to § 195.402(d)(5) for calendar years 2020 through 2022 at its Sour Lake facilities. Citgo provided *Annual Review of Employee Performance,* dated 2020, 2021 and 2022 (Performance Reviews). The Performance Reviews, however, indicated an annual review of the employee's performance, not an effectiveness review of abnormal operation procedures pursuant to § 195.402(d)(5). The Performance Reviews failed to indicate what effectiveness reviews were conducted of the abnormal operations response work done, what procedures were reviewed by operator personnel regarding abnormal operations, when the task was completed, and what corrective actions were taken if any deficiencies were found.

Furthermore, Citgo's *OM Manual Section T – Abnormal Operation,* dated 09/26/22 (OM – Section T) failed to include a process to periodically review the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found, in accordance with § 195.402(d)(5).

During the inspection, PHMSA requested Citgo's procedures regarding the § 195.402(d)(5) requirements and Citgo provided its OM – Section T. The OM – Section T, page T-3 stated in part that "[r]ecords of abnormal operations are to be reviewed annually at intervals not exceeding 15 months to determine the effectiveness of these procedures. Necessary corrective action will be taken."

The OM – Section T, however, failed to provide sufficient details such as what method or process is used to evaluate the response of operator personnel, what procedures are subject to this review or how procedures are selected, and how effectiveness is determined. During the inspection, Citgo did not provide further information on how the § 195.402(d)(5) form is completed, and did not provide additional details on the process, other than the form being included in the annual review of employee performance.

Therefore, Citgo failed to conduct periodic reviews of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found in calendar years 2020, 2021, and 2022 in accordance with § 195.402(d)(5).

5. § 195.403 Emergency response training.

(a) ….

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.

Citgo failed to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible for ensuring compliance. Specifically, Citgo failed to provide adequate records demonstrating compliance with § 195.403(c) during calendar years 2020 through 2022.

During the inspection PHMSA requested emergency response supervisor training records for calendar years 2020 through 2022 at its Sour Lake facilities. Citgo provided its *Annual Review of Employee Performance,* dated 2022 (Performance Reviews). The Performance Reviews did not demonstrate how Citgo verifies its supervisors have maintained a thorough knowledge of the portion of the emergency response procedures established under § 195.402 which they are responsible for to ensure compliance.

The Performance Reviews did not include any specific details regarding how Citgo requires and verifies that its supervisors are knowledgeable of the emergency response procedures for which they are responsible for, any references to § 195.403(c), or any other information on how and where these requirements are documented. When PHMSA requested additional information on how Citgo meets compliance to the regulation, Citgo stated there is no set form that is used to document this data.

Furthermore, Citgo's *OM Manual Section R – Training for DOT Covered Tasks,* dated 10/13/22 (OM – Section R) failed to include a process to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance in accordance with § 195.402(c)(13).

During the inspection, PHMSA requested Citgo's procedures regarding the § 195.403(c) requirements and Citgo provided its OM – Section R. The OM – Section R, page R-2 stated in part, "[s]upervisors are required to maintain a thorough knowledge of company policies and procedure for which they are responsible, maintain a thorough knowledge of DOT Parts 192 and 195 policies and procedures for which they are responsible and ensure compliance with training objectives for employees under their supervision."

The OM – Section R, however, failed to include procedures or details addressing how Citgo verifies supervisors are knowledgeable of applicable emergency response procedures for which they are responsible to ensure compliance.

Therefore, Citgo failed to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible for ensuring compliance during calendar years 2020 through 2022, in accordance with § 195.403(c).

6. § 195.446 Control room management.

(a) ….

(c) *Provide adequate information*. Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) ….

(3) Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months;

Citgo failed to test and verify its internal communication plan as required. Specifically, Citgo failed to test and verify its internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months, during calendar years 2020 and 2021 at its Sour Lake pipeline facilities, in accordance with § 195.446(c)(3).

During the inspection, PHMSA requested records for calendar years 2020 and 2021 related to the testing of the internal communication plan at the Sour Lake, Texas facility. Citgo provided the *SCADA Communication Outage Byran Control Center record,* dated 04/03/20 and 04/11/21 (SCADA Records). The SCADA Records were for loss of power communication events that occurred at the main control center in Bryan, Texas and did not demonstrate testing of the internal communication plan. When PHMSA requested additional information about how the SCADA Records demonstrated testing of the internal communication plan in place at Sour Lake facilities, Citgo discussed that it used information from actual events in lieu of testing. However, the recorded loss of power events did not demonstrate an adequate test and verification for the manual operation of the pipeline.

Furthermore, Citgo's *Pipeline Operations Manual (Field & Control Center) – Abnormal Operations,* dated 09/26/22 (AO Procedure) and *Control Room Management Plan – TPL-EPCC-CRM-03,* dated 01/01/23 (CRM-03) failed to require a test to verify the internal communication plan to provide adequate means for manual operation of the pipeline safely at least once each calendar year but at intervals not to exceed 15 months within the procedures, per the requirements of § 195.446(c)(3).

During the inspection, PHMSA requested Citgo's procedures regarding testing of the internal communication plan. Citgo provided the AO Procedure. The AO Procedure stated in part that "[r]ecords of abnormal operations are to be reviewed annually at intervals not exceeding 15 months to determine effectiveness of the procedures." And "A partial or full loss of communications will be considered an abnormal situation."

The CRM-03, Section 4.5 stated in part that "[t]esting and verification of an internal communications plan for the controlled shutdown of the pipelines in the event of a loss of communications shall be conducted each calendar year, not to exceed 15 months."

However, the AO Procedure and CRM-03 failed to include any process related to how testing of the internal communication plans is carried out or how it is verified at each facility. Furthermore, the AO Procedure was related to annually testing the effectiveness of abnormal operation procedures and not an internal communication plan. When PHMSA asked Citgo where this information was documented, Citgo was unable to provide further information.

Therefore, Citgo failed to test and verify its internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months during calendar years 2020 and 2021 at its Sour Lake pipeline facilities, in accordance with § 195.446(c)(3).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed $266,015 per violation per day the violation persists, up to a maximum of $2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed $257,664 per violation per day the violation persists, up to a maximum of $2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed $239,142 per violation per day the violation persists, up to a maximum of $2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed $225,134 per violation per day the violation persists, up to a maximum of $2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed $222,504 per violation per day the violation persists, up to a maximum of $2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed $218,647 per violation per day the violation persists, up to a maximum of $2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed $213,268 per violation per day, with a maximum penalty not to exceed $2,132,679.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of $ 41,600 as follows:

Item number	PENALTY
2	$ 21,200
5	$ 20,400

Proposed Compliance Order

With respect to Items 3, 4, 5, and 6, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Citgo Pipeline Co. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to Item 1, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. §552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. § 552(b).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 1-2024-033-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Robert Burrough
Director, Eastern Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Citgo Pipeline Company (Citgo) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Citgo with the pipeline safety regulations:

A. In regard to Item 3 of the Notice pertaining to pertaining to the failure to conduct periodic effectiveness reviews at its Sour Lake facilities, Citgo must update its plans and procedures to include adequate detail for its process for complying with § 195.402(c)(13). Citgo must submit revised procedures to the Director of Eastern Region within **90** days of receipt of Final Order.

B. In regard to Item 4 of the Notice pertaining to pertaining to the failure to conduct periodic effectiveness reviews of procedures controlling abnormal operation at its Sour Lake facilities, Citgo must update its plans and procedures and subsequently conduct its initial effectiveness reviews of the procedures controlling abnormal operation with its employees, in accordance with § 195.402(d)(5). Citgo must forward all documentation to the Director of Eastern Region within **90** days of receipt of Final Order.

C. In regard to Item 5 of the Notice pertaining to the failure to require and verify supervisors maintain knowledge of emergency response procedures, Citgo must update its plans and procedures for complying with § 195.403(c). Citgo must submit revised procedures to the Director of Eastern Region within **90** days of receipt of Final Order.

D. In regard to Item 6 of the Notice pertaining to the failure to test the internal communication plans at Sour Lake facilities, Citgo must update its plans and procedures for complying with § 195.446(c)(3), and subsequently test and verify its internal communication plan applicable to these facilities. Citgo must forward all documentation to the Director of Eastern Region within **90** days of receipt of Final Order.

E. It is requested (not mandated) that Citgo Pipeline Co maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. 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.