



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

JUL 14 2005

Mr. Jerry E. Thompson
President
CITGO Pipeline Company
6100 S. Yale
P.O. Box 3758
Tulsa, OK 74102-3758

Re: CPF No. 4-2005-5012

Dear Mr. Thompson:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$14,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,


for James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: R.M. Seeley
Director, Southwest Region, OPS

Jim Sanders
Manager, Region Pipeline and Terminal Facilities, CITGO

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of

CITGO Pipeline Company,

Respondent

CPF No. 4-2005-5012

FINAL ORDER

On August 11–15, 25–29, and September 8–12, 2003, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), conducted an on-site pipeline safety inspection of Respondent's facilities and records pertaining to the Sour Lake District, Eagle Line South, and Eagle Line North pipeline systems in Oklahoma and Texas.¹ As a result of the inspection, the Director of the Southwest Region, OPS, issued to Respondent a Notice of Probable Violation and Proposed Civil Penalty (Notice) by letter dated March 3, 2005. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding Respondent had violated 49 C.F.R. § 195.428(a) and proposed assessing a civil penalty of \$14,000 for the alleged violation.

Respondent responded to the Notice by letter dated April 1, 2005 (Response). In the Response, the Respondent did not contest the violation alleged in the Notice. Instead, Respondent offered an explanation for the violation, provided information concerning corrective action it has taken to correct the violation, and requested the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing in the Response, and has therefore waived its right to one.

FINDING OF VIOLATION

In the Response, Respondent did not contest the violation alleged in the Notice. Accordingly, I find Respondent violated the following section of 49 C.F.R. Part 195:

The Norman Y. Mineta Research and Special Programs Improvement Act, Pub. L. No. 108-426, 118 Stat. 2423 (2004), created the Pipeline and Hazardous Materials Safety Administration (PHMSA) and transferred the authority of RSPA exercised under chapter 601 of title 49, United States Code, to the Administrator of PHMSA. See also 70 Fed. Reg. 8299, 8301-8302 (2005) (delegating authority to the Administrator of PHMSA).

49 C.F.R. § 195.428(a) – failing to determine by regular inspection and testing that each pressure relief valve is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used. At the time Respondent’s facilities were inspected, 10 of the 12 pressure relief valves (PRV) tested at Arlington Station either would not open, opened above 110% of set point, or could not be isolated for testing. Specifically, PRVs # 7 and 34 would not open, PRVs # 5, 9, 13, 14, and 31 opened above 110% of their set points, and PRVs # 11, 30 and 33 could not be isolated. Only PRVs # 19 and 37 tested acceptably.

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 a 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. The Notice proposed a total civil penalty of \$14,000 for the violation.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that in determining the amount of the civil penalty I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent’s culpability, history of Respondent’s prior offenses, Respondent’s ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent’s ability to continue in business, and such other matters as justice may require.

Respondent’s failure to determine the proper functioning of PRVs necessary for the safe operation of its pipeline system created a risk to public safety and the environment. In the event Respondent’s pipeline facility were to experience a sudden increase in pressure, unintended amounts of stress on the pipeline could cause a rupture if the pressure increase was not controlled by the PRVs. Accordingly, it is vital that Respondent determine whether each PRV protecting the system is functioning properly.

In its Response, Respondent requested that the proposed civil penalty be reduced or eliminated for several reasons. Respondent explained that the valves cited in the Notice were routinely tested and that the PRV failures were an isolated incident. Respondent also attributed the PRV failures to a common manufacturer and installation position. Finally, Respondent detailed the corrective action it has taken to ensure future compliance with 49 C.F.R. § 195.428(a).

Respondent requested mitigation or elimination of the proposed civil penalty because it had routinely tested the faulty PRVs and their failure was an isolated incident. Testing of the PRVs in question does not justify reducing the civil penalty, because Respondent did not ensure that each PRV was in proper operating condition. When OPS inspected the PRVs at the Arlington Station, 10 of the 12 PRVs would not open, opened above 110% of set point or could not be isolated for testing. The high percentage of failures at the Arlington Station was not representative of an isolated incident.

Respondent also requested mitigation or elimination of the proposed civil penalty by attributing the PRV failures to a common manufacturer and installation position. Respondent is responsible for ensuring that each PRV on its pipeline system is compatible with requirements for the safe operation of Respondent's system, regardless of the make or installation properties of the PRV.

Finally, Respondent requested mitigation or elimination of the proposed civil penalty based on subsequent corrective action. Respondent has replaced the faulty PRVs as well as notified pipeline operation managers to ensure station thermal relief valves are part of Respondent's inspection program. Since Respondent is under an affirmative duty to comply with pipeline safety regulations applicable to its pipeline system, I find the corrective action taken after the OPS inspection does not justify reducing the civil penalty.

Accordingly, I find no justification for reducing the civil penalty in this case. Having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$14,000. Respondent has the ability to pay this penalty without adversely affecting its ability to continue in business.

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-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$14,000 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.

WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for the following items but warned Respondent that it should take appropriate action to correct the items. The warnings were for:

49 C.F.R. § 195.402 - 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. At the time of the inspection, Respondent did not follow its **written procedures** concerning pig traps. On the Eagle Line North, at Bell Junction, MP 98.34, both the pig trap main valve and kicker valve were found in the closed position. Respondent's written company Policy states that, "all traps will be left open via the kicker valve to prevent overpressure of the trap" and "during normal operations a valve to this receiver will be left in the open position to prevent over pressuring of this receiver trap."

49 C.F.R. §§ 195.402 and 195.430 – failing to follow written procedures for maintaining properly operating firefighting equipment at each pump station and breakout tank area. While Respondent's procedures require monthly inspection of its fire extinguishers, Respondent did not perform monthly inspections for all fire extinguishers at the Sour Lake tank farm in April, May, June, and July 2003.

Respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

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 received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays payment of the assessed civil penalty. However, if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative action and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective on receipt.

for


Stacey Gerard
Associate Administrator
for Pipeline Safety

JUL 14 2005

Date Issued