

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300

Sacramento, CA 95833

(916) 274-5751

FAX (916) 274-5785

Hand delivered

RECEIVED

FEB 20 2013

APPEAL FORM OSH Appeals Board

314332370

Inspection Number on Citation

Chevron U.S.A. Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

841 Chevron Way

Address

Richmond, CA 94801

DOCKET

(Leave blank-Appeals Board will fill in.)

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THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

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☒ CITATION NO(s): 1 Item No(s): 1

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CITATION NO(s): Item No(s):

☐ SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

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☒ The abatement requirements are unreasonable.

☒ Required changes ☒ Time allowed to complete changes

☒ The proposed penalty is unreasonable.

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See Attached.

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(Signature of Employer or Employer's Representative)

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Mark L. Farley

(Type or print name)

Partner

(Title)

909 Fannin Street, Suite 2000

(Address) {Address where all communications from the Appeals Board will be sent}

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Texas

77010

(City)

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(Zip Code)

713-276-7615

mark.farley@pillsburylaw.com

2/19/13

(Telephone)

(E-Mail Address)

(Date)

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ATTACHMENT 1: AFFIRMATIVE DEFENSES

1. The Citation lacks sufficient particularity in violation of California Labor Code Section 6317.
2. The cited standard in the Citation is vague as written and applied to the conditions or circumstances alleged in the Citation.
3. Neither respondent's employees nor contract employees were exposed to the hazards alleged in the Citation.
4. The cited standard in the Citation does not apply to the conditions or circumstances alleged in the Citation.
5. The terms of the cited standard in the Citation were not violated.
6. Respondent lacked actual or constructive knowledge of the alleged violations in the Citation.
7. Respondent acted in good faith.
8. Even if the allegations in the Citation are correct, the violations for which Respondent was cited constitute, at most, *de minimis* violations.
9. Even if the allegations in the Citation are correct, the logical time for compliance has not yet arrived.
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State of California

Division of Occupational Safety and Health

Cal/OSHA Process Safety Management (0950663; 4037)

1450 Enea Circle, Suite 550

Concord, CA 94520

Inspection Number: 314332370

Inspection Dates: 08/30/2012-01/30/2013

Issuance Date: 01/30/2013

CSHO ID: T6126

Optional Inspection Nbr: 001-13



Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty

Company Name: Chevron U.S.A. Inc.

Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 1 Item 1 Type of Violation: Serious

T8CCR2395.78. Bonding in Hazardous Locations.

Regardless of the voltage of the electrical system, the electrical continuity of metal noncurrent-carrying parts of equipment, raceways, and other enclosures in any hazardous location as defined in Article 59 of these Orders shall be assured by any of the methods specified for services that are approved for the wiring method used.

On or before 08/30/12 the employer failed to assure the electrical continuity of electrical systems installed within hazardous locations throughout the refining plant. The following instances were not corrected as of the dates indicated below:

1. An electrical conduit and connection fitting installed under the first deck of Jet Stripper C-732, located in North ISOMAX adjacent to turbine pump 737, were completely separated from the conduit junction body. As of September 20, 2012, the vertically mounted rigid metal conduit (RMC) and exposed wiring remained unrepaired.
2. A bonding jumper was completely detached from a fixed grounding lug that was securely threaded to the connector on the end of a Liquid-Tight Flexible Metal Conduit (LFMC). As of September 27, 2012, the loose bonding wire remained disconnected from the electrical conduit serving controller #FV415 and associated equipment operating within D&R, Plant 37.
3. Two sections of flexible metallic conduit (FMC) at ground level in front of tubes #33 and #66 on the fourth deck of South ISOMAX, F-350, A-Cell/A-Train, sustained physical damage that left the interlocked helical coiling strips separated and stretched to the point where their bonding and grounding capabilities were significantly impaired. As of October 19, 2012, the damaged conduit and exposed wiring remained unrepaired.

Date By Which Violation Must be Abated:

03/04/2013

Proposed Penalty:

\$ 6750.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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CSHO ID: T6126

Optional Inspection Nbr: 001-13



Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty

Company Name: Chevron U.S.A. Inc.

Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 2 Item 1 Type of Violation: **Serious**

T8CCR2473.1(b). Conductors Entering Boxes, Cabinets, or Fittings.

(a) Conductors entering cutout boxes, cabinets, or fittings shall be protected from abrasion, and openings through which conductors enter shall be effectively closed.

(b) Unused openings in cabinets, boxes, and fittings shall be effectively closed.

On or before October 27, 2012 the Employer failed to effectively plug an unused opening on the end of a Rigid Metal Conduit (RMC) fitting installed within a hazardous location at D&R, Plant 37, feed to temperature controller #38TI091B, C590 tray #1.

Date By Which Violation Must be Abated:

03/04/2013

Proposed Penalty:

\$ 6750.00

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Division of Occupational Safety and Health

Cal/OSHA Process Safety Management (0950663; 4037)

1450 Enea Circle, Suite 550

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Inspection Number: 314332370**Inspection Dates:** 08/30/2012-01/30/2013**Issuance Date:** 01/30/2013**CSHO ID:** T6126**Optional Inspection Nbr:** 001-13

Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty**Company Name:** Chevron U.S.A. Inc.**Inspection Site:** 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 3 Item 1 Type of Violation: **Serious****T8CCR2473.2(a). Covers and Canopies.**

All pull boxes, junction boxes, and fittings shall be provided with covers identified for the purpose. If metal covers are used, they shall be grounded. In completed installations, each outlet box shall have a cover, faceplate, or fixture canopy. Covers of outlet boxes having holes through which flexible cord pendants pass shall be provided with bushings designed for the purpose or shall have smooth, well-rounded surfaces on which the cords may bear.

On or before August 30, 2012, the Employer failed to provide covers on electrical conduit bodies installed in hazardous locations throughout the refining plant. The following instances were not corrected as of the dates indicated below.

1. As of 09/19/12, the Employer failed to replace a missing cover on a rigid conduit body installed in a hazardous location containing natural/methane gas on the fourth floor deck of South ISOMAX, Furnace 305, C-CELL.
2. As of 09/27/12, the Employer failed to replace a missing cover on a rigid conduit body installed in a hazardous location at the Distillation and Refining unit, located 15 feet above the ground next to furnace #F-447.

Date By Which Violation Must be Abated:**03/04/2013****Proposed Penalty:****\$ 6750.00**

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Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 4 Item 1 Type of Violation: **Serious**

T8CCR5162(a). Emergency Eyewash and Shower Equipment.

5162 (a) Plumbed or self-contained eyewash or eye/facewash equipment which meets the requirements of sections 5, 7, or 9 of ANSI Z358.1-1981, Emergency Eyewash and Shower Equipment, incorporated herein by this reference, shall be provided at all work areas where, during routine operations or foreseeable emergencies, the eyes of an employee may come into contact with a substance which can cause corrosion, severe irritation or permanent tissue damage or which is toxic by absorption.

As of September 26, 2012, an eyewash/shower station located near V2606 in SRU, where exposure to corrosive or severely irritating liquids is possible, had been painted dark green, the same color as surrounding beams, making it difficult for an injured worker with corrosive or irritating material in his/her eyes to access the eyewash.

Date By Which Violation Must be Abated:

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- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
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RECEIVED

FEB 20 2013

ATTACHMENT 1: AFFIRMATIVE DEFENSES OSH Appeals Board

1. The Citation lacks sufficient particularity in violation of California Labor Code Section 6317.

2. The cited standard in the Citation is vague as written and applied to the conditions or circumstances alleged in the Citation.

3. Respondent's employees were not exposed to the hazards alleged in the Citation.

4. The cited standard in the Citation does not apply to the conditions or circumstances alleged in the Citation.

5. The terms of the cited standard in the Citation were not violated.

6. Respondent lacked actual or constructive knowledge of the alleged violations in the Citation.

7. Respondent acted in good faith.

8. Even if the allegations in the Citation are correct, the violations for which Respondent was cited constitute, at most, *de minimis* violations.

9. Even if the allegations in the Citation are correct, the logical time for compliance has not yet arrived.

10. The Citation was issued to Respondent after the expiration of the six-month period of limitation in violation of California Labor Code Section 6317.

State of California

Division of Occupational Safety and Health

Cal/OSHA Process Safety Management (0950663; 4037)

1450 Enea Circle, Suite 550

Concord, CA 94520

Inspection Number: 314332370

Inspection Dates: 08/30/2012-01/30/2013

Issuance Date: 01/30/2013

CSHO ID: T6126

Optional Inspection Nbr: 001-13



Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty

Company Name: Chevron U.S.A. Inc.

Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 5 Item 1 Type of Violation: **Serious**

T8CCR5189(j)(3). Process Safety Management of Acutely Hazardous Materials.

Equipment deficiencies. The employer shall correct deficiencies in equipment which are outside acceptable limits defined by the process safety information in subsection (d) before further use, or in a safe and timely manner provided means are taken to assure safe operation.

On or before 08/30/12 the Employer failed to ensure that every broken or damaged electrical conduit, fitting, receptacle, or vapor proof light fixture installed at each processing unit in the refining plant was effectively repaired or replaced in a timely manner.

Date By Which Violation Must be Abated:

03/04/2013

Proposed Penalty:

\$ 6750.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300

Sacramento, CA 95833

(916) 274-5751

FAX (916) 274-5785

RECEIVED

FEB 20 2013

OSH Appeals Board

A P P E A L F O R M

314332370

Inspection Number on Citation

Chevron U.S.A. Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

841 Chevron Way

Address

Richmond, CA 94801

DOCKET

(Leave blank-Appeals Board will fill in.)

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**FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE
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1. This is an Appeal from:

☒ CITATION NO(s): 6 Item No(s): 1

☐ NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

☐ SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

☒ The safety order was not violated.

☒ The classification (i.e. serious, willful, repeat) is incorrect.

☒ The abatement requirements are unreasonable.

☒ Required changes ☒ Time allowed to complete changes

☒ The proposed penalty is unreasonable.

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See Attached.

4.



(Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Mark L. Farley

(Type or print name)

Partner

(Title)

909 Fannin Street, Suite 2000

(Address) {Address where all communications from the Appeals Board will be sent}

Houston

Texas

77010

(City)

(State)

(Zip Code)

713-276-7615

mark.farley@pillsburylaw.com

2/19/13

(Telephone)

(E-Mail Address)

(Date)

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RECEIVED
FEB 20 2013

ATTACHMENT 1: AFFIRMATIVE DEFENSES

OSH Appeals Board

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3. Neither respondent's employees nor contract employees were exposed to the hazards alleged in the Citation.
4. The cited standard in the Citation does not apply to the conditions or circumstances alleged in the Citation.
5. The terms of the cited standard in the Citation were not violated.
6. Respondent lacked actual or constructive knowledge of the alleged violations in the Citation.
7. Respondent acted in good faith.
8. Even if the allegations in the Citation are correct, the violations for which Respondent was cited constitute, at most, *de minimis* violations.
9. The Citation was issued to Respondent after the expiration of the six-month period of limitation in violation of California Labor Code Section 6317.

State of California

Division of Occupational Safety and Health
Cal/OSHA Process Safety Management (0950663;4037)
1450 Enea Circle, Suite 550
Concord, CA 94520

Inspection Number: 314332370
Inspection Dates: 08/30/2012-01/30/2013
Issuance Date: 01/30/2013
CSHO ID: T6126
Optional Inspection Nbr: 001-13



Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty

Company Name: Chevron U.S.A. Inc.
Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 6 Item 1 Type of Violation: **Willful Serious**

T8CCR5189(I).Process Safety Management of Acutely Hazardous Materials.

(1) The employer shall establish and implement written procedures to manage changes (except for "replacement in kind") to process chemicals, technology, and equipment, and changes to facilities.

(2) The procedures shall assure that the following are addressed prior to any change:

- (A) The technical basis for the proposed change;
- (B) Impact of change on safety and health;
- (C) Modifications to operating procedures;
- (D) Necessary time period for the change; and,
- (E) Authorization requirements for the proposed change.

As of the September 2012 dates indicated below, the Employer had not implemented its written procedures with regard to (A) Technical basis for the change, and (D) Necessary time period for the change, for the following three changes to its facilities.

1. As of September 12, 2012, MOC (Management of Change) number 16210, an injection fitting seal of a leak in a 3 inch block valve controlling flow at the east natural gas split at furnace F-305C on the 4th deck in South Isomax was in place 13 months beyond its MOC expiration date. The necessary time period for the change was not implemented.

2. As of September 27, 2012, MOC number 18408, a globe valve injection fitting on the 1S/C to 2 S/C on a 400 degree hydrocarbon line in the D&R 4 Crude plant was 2 years and 7 months beyond its MOC expiration date. The necessary time period for the change was not implemented.

3. As of September 27, 2012, MOC number 21513, an injection fitting for valve packing on a motor operated valve controlling the flow of 600 psi flammable product at the base of V-4030A in the D&R PenHex area had been in place since January, 2010. It was not replaced, as recommended in the MOC, at the next opportunity. In the technical basis for the change, the maximum time period before replacement was stated to be 5 years.

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California

Division of Occupational Safety and Health

Cal/OSHA Process Safety Management (0950663;4037)

1450 Enea Circle, Suite 550

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Inspection Number: 314332370**Inspection Dates:** 08/30/2012-01/30/2013**Issuance Date:** 01/30/2013**CSHO ID:** T6126**Optional Inspection Nbr:** 001-13

Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty**Company Name:** Chevron U.S.A. Inc.**Inspection Site:** 841 CHEVRON WAY, RICHMOND, CA 94801

But it was not replaced at the turnaround in January 2011 and was given until December 31, 2017, a period of 8 years. Neither the maximum time period of 5 years, nor the instruction to replace "at the next opportunity," was implemented.

Date By Which Violation Must be Abated:

03/04/2013

Proposed Penalty:

\$ 70000.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300

Sacramento, CA 95833

(916) 274-5751

FAX (916) 274-5785

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FEB 20 2013

OSH Appeals Board

A P P E A L F O R M

314332370

Inspection Number on Citation

Chevron U.S.A. Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

841 Chevron Way

Address

Richmond, CA 94801

DOCKET

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☐ NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

☐ SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

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☒ The safety order was not violated.

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Mark L. Farley

(Type or print name)

Partner

(Title)

909 Fannin Street, Suite 2000

(Address) {Address where all communications from the Appeals Board will be sent}

Houston

Texas

77010

(City)

(State)

(Zip Code)

713-276-7615

mark.farley@pillsburylaw.com

2/19/13

(Telephone)

(E-Mail Address)

(Date)

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State of California

Division of Occupational Safety and Health

Cal/OSHA Process Safety Management (0950663; 4037)

1450 Enea Circle, Suite 550

Concord, CA 94520

Inspection Number: 314332370

Inspection Dates: 08/30/2012 - 01/30/2013

Issuance Date: 01/30/2013

CSHO ID: T6126

Optional Inspection Nbr: 001-13



Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty

Company Name: Chevron U.S.A. Inc.

Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 7 Item 1 Type of Violation: **Serious**

T8CCR6773(b). Fire Protection and Fire Fighting Equipment.

(b) Fire protection and fire fighting equipment shall be inspected, tested and maintained in serviceable condition. A record shall be kept showing the date when fire extinguishers and hose lines were last inspected, tested, repaired, or renewed. Fire protection and fire fighting equipment after any use shall promptly be made serviceable and restored to its proper location.

On or before 08/30/2012, the Employer failed to inspect, test, and maintain a section of an exposed fire service main, thus leaving it in a non-serviceable condition. Fire protection systems served by this fire service main include onsite fire hydrants and fixed monitor nozzles strategically placed to provide fire protection in the following areas: Flare gas recovery compressor, C-730 and associated furnace, north and south flare areas, cooling water tower, and the east side of TKN and RLOP plants.

As of September 20, 2012, the fire service main remained in a non-serviceable condition.

Date By Which Violation Must be Abated:

03/04/2013

Proposed Penalty:

\$ 6750.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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Sacramento, CA 95833

(916) 274-5751

FAX (916) 274-5785

RECEIVED
FEB 20 2013

OSH Appeals Board

A P P E A L F O R M

314332370

Inspection Number on Citation

Chevron U.S.A. Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

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Address

Richmond, CA 94801

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CITATION NO(s): Item No(s):

☐ SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

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Mark L. Farley

(Type or print name)

Partner

(Title)

909 Fannin Street, Suite 2000

(Address) {Address where all communications from the Appeals Board will be sent}

Houston

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77010

(City)

(State)

(Zip Code)

713-276-7615

mark.farley@pillsburylaw.com

2/19/13

(Telephone)

(E-Mail Address)

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State of California

Division of Occupational Safety and Health

Cal/OSHA Process Safety Management (0950663; 4037)

1450 Enea Circle, Suite 550

Concord, CA 94520

Inspection Number: 314332370

Inspection Dates: 08/30/2012 - 01/30/2013

Issuance Date: 01/30/2013

CSHO ID: T6126

Optional Inspection Nbr: 001-13



Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty

Company Name: Chevron U.S.A. Inc.

Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

Citation 8 Item 1 Type of Violation: **Willful Serious**

T8CCR6845(a). Piping, Fittings, and Valves.

(a) The design, fabrication, and assembly of piping systems installed prior to July 26, 2006, shall comply with General Industry Safety Orders and ASME B31.3- 1990, Chemical Plant and Petroleum Refinery Piping herein incorporated by reference. The design, fabrication, and assembly of piping systems installed on or after July 26, 2006, and the testing, inspection, and repair of all piping systems shall comply with Article 146 of the General Industry Safety Orders; API 570, Piping Inspection Code, Second Edition, October 1998, Addendum 3, August 2003; and ASME B31.3-2002, Process Piping; herein incorporated by reference.

As of September, 2012, dates indicated, a total of nine temporary nonwelding repairs identified below were not removed at the most recent turnaround:

1. MOC number 20968, a clamp covering two flanges and a valve at the outlet of furnace F-340 in South Isomax., conveying hot (>600 deg F) natural gas. As of September 12, 2012, this was in place 2 years and 6 months past its last turnaround.
2. MOC number 18856, a valve packing injection fitting for a valve conveying natural gas to furnace F305 in South Isomax. As of September 18, 2012, this had been in place 30 months past its last turnaround.
3. MOC number 16210, an injection fitting in a block valve for the F 305 east split in South Isomax, conveying hot (>600 deg F) natural gas. As of September 12, and 18, 2012. It had been in place for 6 years and was 30 months beyond the last turnaround.
4. MOC number 17395, a clamp covering the mating surface edge of two flanges for a feed gas orifice for furnace F 305 in South Isomax, conveying natural gas. As of September 12, 2012, it was still in place more than 5 years later and 30 months past the last turnaround.
5. MOC number 19758, a clamp enclosing an elbow at Stanchion A6 overhead in the TKN plant of North Isomax, conveying nitrogen at up to 200 psi. As of September 20, 2012. was still in place 2 years and 7 months past the last turnaround.

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California

Division of Occupational Safety and Health

Cal/OSHA Process Safety Management (0950663; 4037)

1450 Enea Circle, Suite 550

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Inspection Number: 314332370

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Issuance Date: 01/30/2013

CSHO ID: T6126

Optional Inspection Nbr: 001-13



Phone: (925) 602-2665 Fax: (925) 602-2668

Citation and Notification of Penalty

Company Name: Chevron U.S.A. Inc.

Inspection Site: 841 CHEVRON WAY, RICHMOND, CA 94801

6. MOC number 21513, an injection fitting in a valve on a 6 inch line conveying flammable liquid/vapor at the base of V-4030A in D & R PenHex. As of September 27, 2012, was still present 11 months beyond the last turnaround maintenance opportunity.

7. MOC number 21434, a valve packing injection fitting at 40 MOV inlet block valve for drier V4030A in D&R, PenHex, conveying hydrogen. As of September 27, 2012, this was still present 11 months beyond the last turnaround maintenance opportunity.

8. MOC number 18408, a globe valve injection fitting at on the 1 S/C to 2 S/C on the D-308312 line in D&R unit, 4 Crude plant, conveying hydrocarbon at 400 deg F, 300 psi. As of September 27, 2012, this fitting was in place for 4 years, 5 months and was still present 11 months past the most recent turnaround.

9. MOC number 15197, consisting of 3 injection fittings, two for packing and one for a flange, on LT 92 top block valve to V4090, conveying C1 to C5 hydrocarbons and and chlorine. As of September 27, 2012, these three injection fittings were still present, 7 years later, and 1 year and 8 months past the most recent turnaround.

Date By Which Violation Must be Abated:

03/04/2013

Proposed Penalty:

\$ 70000.00

[Redacted Signature]
Compliance Officer/District Manager

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California
Division of Occupational Safety and Health
Cal/OSHA Process Safety Management District Office
1450 Enea Circle, Suite 550 (Index Code 4037)
Concord, CA 94520-7996
Phone: (925) 602-2665 Fax: (925) 602-2668



Citation and Notification of Penalty

To:
Chevron U.S.A. Inc.

and its successors
841 CHEVRON WAY
RICHMOND, CA 94801

Inspection Site:
841 CHEVRON WAY
RICHMOND, CA 94801

Inspection Number: 314332370
Inspection Date(s): 08/30/2012 - 01/30/2013

Issuance Date: 01/30/2013
CSHO ID: T6126
Optional Report #: 001-13
Reporting ID: 0950663

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/investigation. This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer. Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

YOU HAVE A RIGHT to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you must contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

Informal Conference - You may request an informal conference with the Manager of the District Office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an agreement which resolves this matter without litigation or contest.

APPEAL RIGHTS

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced attorneys as administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of a Citation. After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, for each contested citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board

2520 Venture Oaks Way, Suite 300

Sacramento, CA 95833

Telephone: (916) 274-5751 or (877) 252-1987

Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

Important: You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, (916) 274-5751 or (877) 252-1987.

PENALTY PAYMENT OPTIONS

Penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

If you are paying by credit card (MasterCard and Visa), please have the Penalty Remittance Form on-hand when you are ready to make our payment. The company name, index code, reporting ID, and Citation number(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to www.dir.ca.gov/dosh to access the secure payment processing site.

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations
Cashier, Accounting Office
P. O. Box 420603
San Francisco, CA 94142-0603

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

NOTIFICATION OF CORRECTIVE ACTION

For violations which you do not contest, you should notify the Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the District Office listed on the Citation by submitting the CAL/OSHA Form 160 and/or 161 with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for serious and general violations has already been reduced by 50% on the presumption that the employer will correct the violations by the abatement date. **If the CAL/OSHA Form 161 is not received in the District Office within 10 days following the abatement date, the abatement credit is revoked, causing the penalty to double.**

Note: Return the CAL/OSHA Form 160/161 to the District Office listed on the Citation and as shown below:

Division of Occupational Safety and Health
1450 Enea Circle, Suite 550
Concord, CA 94520

EMPLOYEE RIGHTS

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

Employee Appeals - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a District Office of the Division.

Employees Participation in Informal Conference. Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

DISABILITY ACCOMMODATION

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.