

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 19, 2012

Mr. Peter Guadagni
General Manager
Island Energy
65 Civic Avenue
Pittsburg, CA 94565

CPF 5-2012-0001

Dear Mr. Guadagni:

On June 28, 2011, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, conducted an Operator Qualification (OQ) inspection of the Island Energy's (IE) OQ program at your office in Vallejo, California.

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

- 1. §192.805 Qualification program.**
Each operator shall have and follow a written a written qualification program.
The program shall include provisions to:
 - (a) Identify covered tasks;**

Island Energy (IE) failed to include provisions in its OQ Plan that identified covered tasks using the four-part test set out in §192.801(b). Island Energy (IE) has a covered task list and a process in the OQ Plan of how to identify a covered task, but this process does not apply the four-part set out in §192.801(b) to determine whether Part 192 O&M activities applicable to IE were covered tasks. In order to comply with §192.805(a), IE must identify each covered task using the four part test set out in §192.801(b).

2. §192.805 Qualification program

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed;

Island Energy's OQ plan specifies a re-evaluation interval of not more than three (3) years, yet the covered task list specifies re-evaluation intervals of two (2) years for all covered tasks. The re-evaluation intervals for both the OQ Plan and the covered tasks list need to be consistent.

3. §192.285 Plastic pipe: Qualifying persons to make joints.

(c) A person must be requalified under an applicable procedure, if during any 12-month period that person:

(1) Does not make any joints under that procedure; or

(2) Has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under §192.513.

As required by §192.285, Island Energy's OQ Plan must requalify a person making joints, if during any 12-month period the qualified person does not make any joints under the Island Energy procedure or has three (3) joints or three (3) percent of the joints made, whichever is greater, under that procedure are found unacceptable by testing under §19.513. However, Island Energy's OQ Plan does not contain this necessary §192.285 requirement. Island Energy must have the evaluation criteria for fusion bond joints in its OQ Plan. In addition, failure to include this requirement in the OQ Plan affects the re-evaluation interval as well. Island Energy's covered task list specifies a re-evaluation interval of two (2) years for all covered tasks including fusion bond joints. The re-evaluation interval as required by §192.805(g) for fusion bond joints must include the §192.285 requirements provided above. For fusion bond joints the re-evaluation interval is two (2) years unless the §192.285 criteria are met in which case the re-evaluation interval is one (1) year.

4. §192.805 Qualification program

(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;

Island Energy (IE) has identified welding and Non-Destructive Testing (NDT) as covered tasks in its covered task list. IE requires welders and NDT testers to be qualified by a knowledge-based class with an exam and field evaluation. A knowledge-based class and

exam with a field evaluation is not adequate for these tasks. Welders need to be qualified using API 1104 as per §192.227 and the NDT testers should be NACE certified or equivalent.

Proposed Compliance Order

With respect to items 1, 2, 3 and 4 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Island Energy. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being 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). 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.

In your correspondence on this matter, please refer to **CPF 5-2012-0001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to covered tasks identification, Island Energy must perform an analysis applying the four-part test to determine whether 49 CFR Part 192 Operations and Maintenance activities applicable to Island Energy are covered tasks. This analysis is to be retained and reviewed periodically for applicability.
2. In regard to Item Number 2 of the Notice pertaining to re-evaluation interval discrepancies between the OQ Plan and the specific task list, Island Energy needs to ensure the re-evaluation interval in the OQ Plan and the covered task list are the consistent.
3. In regard to Item Number 3 of the Notice pertaining to heat fusion bond joints, the OQ Plan does not address the requirements of §192.285(c) that if an individual has not performed a fusion bond in a 12-month period or has 3 bonds or 3% of the bonds (whichever is greater) are found to be unacceptable, then that individual needs to be re-qualified before performing the task. The OQ Plan should be revised to include this requirement. In addition this requirement should be reflected in the re-evaluation intervals.
4. In regard to Item Number 4 of the Notice pertaining to the fact that the welding Non-Destructive Testing (NDT) qualification requirements are inadequate, the OQ Plan should state that welders should meet API 1104 requirements as per §192.227 and the NDT testers need to meet NACE or equivalent qualifications.
5. Island Energy is requested to maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. Costs should 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.
6. Item Numbers 1 through 4 should be completed within 60 days of receipt of this proposed compliance order and documentation of actions taken submitted to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration.