

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

VIA E-MAIL TO MR. JON MAUER

April 27, 2022

Mr. Jon Mauer
President and CEO
Island Energy Service
91-480 Malakole Street
Kapolei, HI 96707

CPF 5-2022-023-NOPV

Dear Mr. Mauer:

From November 1 through 5, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected your Oahu Pipelines in Kapolei and Honolulu, Hawaii, and your breakout tank facility in Hilo, Hawaii.

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. § 195.205 Repair, alteration and reconstruction of aboveground breakout tanks that have been in service.**
 - (a) Aboveground breakout tanks that have been repaired, altered, or reconstructed and returned to service must be capable of withstanding the internal pressure**

produced by the hazardous liquid to be stored therein and any anticipated external loads.

(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following:

(1) For tanks designed for approximate atmospheric pressure, constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated; and for tanks built to API Std 650 (incorporated by reference, *see* § 195.3) or its predecessor Standard 12C; repair, alteration; and reconstruction must be in accordance with API Std 653 (except section 6.4.3) (incorporated by reference, *see* § 195.3).

Island Energy Services (IES) failed to repair the roof of Tank 12 in accordance with API Std 653, as required by § 195.205(b)(1). Tank 12 is an atmospheric pressure breakout tank built to API Std 12C.

Chapter 4 of API Std 653 prescribes criteria for suitability for service. Section 4.2.1.2 requires that "roof plates with any holes through the roof plate shall be repaired or replaced." The roof of Tank 12 had multiple holes due to corrosion, as shown in photographs taken during the November 4, 2021 on-site inspection. Following the inspection, the operator described in a November 11, 2021 email how they sealed the holes in the roof using an epoxy repair. However, an epoxy repair does not meet the general repair requirement for breakout tanks in § 195.205(a), nor does it meet the specific repair requirement for a tank built to API Standard 12C in § 195.205(b)(1).

The general repair requirement for aboveground breakout tanks in § 195.205(a) states "[a]boveground breakout tanks that have been repaired, altered, or reconstructed and returned to service must be capable of withstanding the internal pressure produced by the hazardous liquid to be stored therein and any anticipated external loads." An epoxy repair as described by the operator is not sufficient for the anticipated external loads (specifically, ensuring that personnel can safely access the tank roof). To repair the roof plates in a manner sufficient for the anticipated external loads, the operator must follow § 195.205(b)(1), which incorporates API Std. 653 by reference. The operator failed to repair roof plates following the requirements of Chapter 9 of API Std. 653 (including the specific practices to restore the thickness of the roof plates in Section 9.11).

2. § 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.

IES failed to inspect and test each electrical isolation on the White Oil #1 and #2 pipelines to ensure that they were adequately isolated from other buried metallic structures, as required by § 195.575(c). The pipelines are cased through a bridge abutment at Mile 5.7. The White Oil #1 pipeline penetrates through the Jet Spur take-off vault walls. During the inspection, the operator was unable to provide any records showing that it had tested the pipelines to ensure they are electrically isolated from the casing and vault walls.

3. **§ 195.579 What must I do to mitigate internal corrosion?**

(a)

(d) **Breakout tanks.** After October 2, 2000, when you install a tank bottom lining in an aboveground breakout tank built to API Spec 12F (incorporated by reference, *see* § 195.3), API Std 620 (incorporated by reference, *see* § 195.3), API Std 650 (incorporated by reference, *see* § 195.3), or API Std 650's predecessor, Standard 12C, you must install the lining in accordance with API RP 652 (incorporated by reference, *see* § 195.3). However, you don't need to comply with API RP 652 when installing any tank for which you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain provisions of API RP 652 is not necessary for the safety of the tank.

IES failed to mitigate internal corrosion as required by § 195.579(d). Specifically, neither IES' O&M Manual, nor its Terminal-Specific O&M Manual, mention whether Tank 12 was lined. Nor do the manuals indicate which provisions of API RP 652, if any, were applied. Tank 12 at the Hilo facility was rebuilt in 2008 and should have complied with § 195.579(d) at that time. During the 2021 inspection, the operator was unable to provide any record of a lining installation on Tank 12 to support an analysis of whether any provisions of API RP 652 were applied.

4. **§ 195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?**

(a)

(b) **Coating material must be suitable for the prevention of atmospheric corrosion.**

IES failed to protect against atmospheric corrosion by using appropriate coating, as required by § 195.581(b). The coating material that IES used to protect the White Oil #1 and #2 pipelines from atmospheric corrosion failed to prevent atmospheric corrosion, as shown in photos taken during the November 2, 2021 on-site inspection. In particular, the pipelines' coatings failed at the above-ground segment at the Neil Blasedell park pedestrian bridge. The coatings' failures resulted in corrosion that is beyond that of a light surface oxide.

5. **§ 195.583 What must I do to monitor atmospheric corrosion control?**

(a) **You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:**

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

. . . .

IES failed to monitor atmospheric corrosion control consistent with § 195.583(a). Specifically, IES did not conduct or adequately document the atmospheric corrosion inspections of its White Oil #1

and #2 pipelines. Atmospheric corrosion inspection reports for 2019 for White Oil #1 and #2 pipelines started at Milepost 3.5. The operator was unable to provide records showing that it had ever conducted an atmospheric corrosion inspection of the pipeline facilities upstream of MP-3.5 (i.e. pumping equipment, pig traps, and the above-ground segments of the pipeline facility within the refinery grounds).

6. § 195.589 What corrosion control information do I have to maintain?

(a)

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§ 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

IES failed to maintain corrosion control information consistent with § 195.589(c). The operator provided its 2020 atmospheric corrosion inspection records for the Hilo facility piping but was unable to locate a record of the previous inspection.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 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. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Island Energy Services. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to items 2 through 6, 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. 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2022-023-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 J. Gano (#21-218958)
Teja Arika, Pipeline Integrity Engineer, IES (via email)

PROPOSED COMPLIANCE ORDER

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

- A. In regard to item 1 of the Notice pertaining to corroded roof plates of Tank 12, Island Energy Services must:
 - i. Within **30** days of receipt of the Final Order, submit to the Director of the Western Region a written repair plan for making a permanent repair of Tank 12's corroded roof plates. The Repair Plan must be approved by an authorized inspector, or an engineer experienced in storage tank design (as required by Section 9.1.3 and 9.1.4 of API Standard 653), and must be consistent with Section 9.11, Repair of Fixed Roofs, of API Standard 653.
 - ii. Within **90** days of receiving a notice of non-objection from the Director, Western Region, Island Energy Services must complete the repairs of Tank 12's corroded roof plates, consistent with the written repair plan described in A.i.
 - iii. Within **30** days of completing the repairs described in A.ii, Island Energy Services must provide records to the Director of the Western Region showing the completed repairs (photos and as-built drawings).
- B. It is requested that Island Energy Services maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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.