U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

TRANSMITTED VIA EMAIL &
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 22, 2015

Mr. Lawrence McMahon
Vice-President, Fuel Consortiums
Aircraft Services International Group (ASIG)
ASIG/LAX Fuel
9900 LAXfuel Road
Los Angeles, CA 90045

CPF 5-2015-6002S
Sand Island Tank Facility

Dear Mr. McMahon:

Enclosed is a Notice of Proposed Safety Order (Notice) issued in the above-referenced case. The Notice proposes that Aircraft Services International Group (ASIG) take certain measures with respect to the Hawaii Fueling Facilities Corporation's Sand Island Tank Facility in Honolulu, Hawaii. Your options for responding are set forth in the Notice. Your receipt of the Notice constitutes service of that document under 49 C.F.R. §190.5.

We look forward to a successful resolution to ensure pipeline safety. Please direct any questions on this matter to me at 720-963-3160.

Sincerely,

C Hoidal

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

Enclosure: Notice of Proposed Safety Order
Copy of 49 C.F.R. § 190.239

cc: Mr. Jason Maga, Assistant Treasurer, ASIG

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY

In the Matter of	)	
Aircraft Services International Group,	)	**CPF No. 5-2015-6002S**
Respondent	)	

NOTICE OF PROPOSED SAFETY ORDER

Background and Purpose

Pursuant to Chapter 601 of title 49, United States Code, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has initiated an investigation of the safe operation of the Sand Island Tank Facility in Oahu, Hawaii. This tank facility is owned by Hawaii Fueling Facilities Corporation (HFFC) and operated by the Aircraft Services International Group (ASIG). The Sand Island Tank Facility receives jet fuel from PHMSA-regulated pipelines operated by other companies. ASIG stores the jet fuel in PHMSA-regulated "breakout tanks" prior to being transported by their pipelines to the Honolulu International Airport.

The investigation was prompted after PHMSA was notified on January 21, 2015 by the National Response Center of a jet fuel release from Tank 2 at the Sand Island Tank Facility. As a result of the investigation, it appears conditions exist at this breakout tank facility posing an integrity risk to public safety, property, or the environment. Pursuant to 49 U.S.C. § 60117(l), PHMSA issues this Notice, notifying you of the preliminary findings of the investigation, and proposing that you take measures to ensure that the public, property, and the environment are protected from the potential risk.

Preliminary Findings

- The affected breakout tank facility is known as the Sand Island Tank Facility (Tank Facility). The Tank Facility receives, stores, and delivers jet fuel for airplanes serviced at the Honolulu International Airport. The Tanks Facility consists of 16 above ground storage tanks that receive and supply fuel via both PHMSA and US Coast Guard regulated pipelines which defines the tanks at the Tank Facility as PHMSA-regulated breakout tanks subject to 49 CFR Part 195 regulations. The definition of a breakout tank is specified in §195.2.

- Tank 2 of the Tank Facility was constructed in 1973, with a new single-bottom floor installed in 1989. The 15 other tanks on the Tank Facility were constructed between 1966 and 1989, and each can store between 25,000 barrels and 132,000 barrels of jet fuel.

- The Tank Facility is located adjacent to the Honolulu Harbor. The Tank Facility is situated within an ecological Unusually Sensitive Area, as defined in 49 CFR 195.6, and a densely populated industrial area near downtown Honolulu.

- In December 2014, ASIG controllers noted inventory discrepancies after filling Tank 2 via ocean vessel. As a result, ASIG emptied, degassed, and cleaned Tank 2 beginning on December 26, 2014. The floor was scanned by Magnetic Flux Leakage (MFL) tool and metal loss was noted at a 6-inch repair patch of the floor near the tank's center sump. ASIG stated the leak was caused by a failure of the weld at this patch location.

- At approximately 7:02 pm HST on January 21, 2015, PHMSA was notified by the National Response Center (NRC #1106276) of a leak at Tank 2 of the Tank Facility (Accident). An estimated 42,000 gallons of jet fuel seeped from Tank 2.

- The last inspection per API Standard 653 Tank Inspection, Repair, Alteration and Reconstruction (API 653 Out-of Service Inspection) on Tank 2 was performed in September 2007. The next API 653 Out-of Service Inspection was scheduled for 2017. An annual internal inspection and cleaning (Annual Cleaning Inspection) of Tank 2 was performed in August 2014, with no issues found on the tank floor.

- On March 11, 2015, PHMSA inspectors initiated an investigation of the Tank 2 Accident. This investigation identified numerous safety and regulatory issues relating to the inspection, record keeping, ongoing floor corrosion, and previous floor repairs of Tank 2. Specifically, the previous two API 653 Out-of-Service Inspections (in 2000 and 2007) on Tank 2 did not:
    - Identify that undersized patches were used to repair the tank floor.
    - Identify all tank patch locations in the tank floor, including several that had been installed between 1998 and the present.
    - Identify that some of the patches were placed over lap welds between floor plates.
    - Identify several recommendations made in a 1996 inspection report that were not performed at that time because the tank had already been placed back in service, including:
        - Lap welds stepped in the wrong direction,
        - Undersized fillet welds,
        - Lack of an API required hydrotest after the floor to shell fillet weld was repaired, and
        - Use of both full penetration butt welds and lap welds on the annular ring.
    - Use the proper data to determine the remaining life of the tank floor and the time until the next scheduled API 653 Out-of-Service Inspection. The 2000 API 653 Out-of-Service Inspection report indicates pits in the annular ring of the tank but the 2007 report does not indicate any pits. Furthermore, the operator had no records of a floor repair between 2000 and 2007 and did not recall any floor repairs taking place during this period.
    - Include the bottom thickness UT readings in the 2007 report.

- Identify tank floor issues that required repair. No issues were indicated with the tank floor in the 2007 inspection report, API 653 Appendix C, checklist despite the fact that many issues existed.

- ASIG did not conduct an API 653 Out-of-Service Inspection within the timeframe recommended by the last API 653 report. The time until the next inspection is listed as 5.33 years in the 2007 report; however, the tank did not have another API 653 Out-of-Service Inspection performed on it prior to its failure in December 2014.

- There were deficiencies in ASIG's records regarding Tank 2:
  - The operator believed that the tank had a double floor when there was only a single floor.
  - No construction drawing records exist.
  - The operator believed that there was a sand layer installed beneath the tank floor when it is actually it appears to be a coarse material as observed by the PHMSA inspector at that time.
  - A 1998 inspection report documents several patches installed on the floor, but subsequent inspection reports do not indicate any patches. Inspection of the tank floor in March 2015 identified several more patches installed that were not indicated on the 1998 drawing, but the operator had no record of them ever being installed. No records exist of the additional patches installed between 1998 and the present.
  - The Tank 2 maintenance records and inspection reports do not properly document floor repairs.

- The authorized tank inspector (AI), "Inspector A" who last inspected Tank 2 also performed API 653 Out-of-Service Inspection on other tanks at the Tank Facility. The quality level of previous API 653 Out-of-Service Inspection including record keeping and analysis of results of the other 15 storage tanks at this facility is therefore questionable. Based on the information provided by ASIG, Inspector A performed the last API 653 Out-of-Service Inspection on the following tanks: 3, 4, 5, 6, 11, 12, 13, 15, 16, 17, and 18. A different inspector, "inspector B", performed the last API 653 Out-of-Service Inspection on the four other tanks but inspector A had also performed API 653 Out-of-Service Inspections on these tanks in the past. Based on inspector A's involvement in inspecting all of the other 15 tanks in the past and ASIG's poor recordkeeping of the tanks, we have concerns about the integrity of all 15 other tanks. ASIG has indicated that they have concerns about many, but not all, of the tanks as well and has begun the process of performing API 653 Out-of-Service Inspections on the tanks that they are most concerned about.

Proposed Issuance of Safety Order

Section 60117(l) of Title 49, United States Code, provides for the issuance of a safety order, after reasonable notice and the opportunity for a hearing, requiring corrective measures, which may include physical inspection, testing, repair, or other action, as appropriate. The basis for making

the determination that a pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment is set forth both in the above-referenced statute and 49 C.F.R. § 190.239, a copy of which is enclosed.

After evaluating the foregoing preliminary findings of fact and considering the deficiencies in the inspection, record keeping, floor corrosion, and floor repairs of Tank 2, the concern regarding the quality and competence of the inspections of the other 15 tanks in the Tank Facility, the age of the tanks involved, the hazardous nature of the product transported, the characteristics of the geographical areas where the pipeline facility is located, and the likelihood that the conditions could worsen or develop on other areas of the facility and potentially impact its serviceability, it appears that the continued operation of the affected pipeline facility without corrective measures would pose a pipeline integrity risk to public safety, property, or the environment.

Accordingly, PHMSA issues this Notice of Proposed Safety Order to notify Respondent of the proposed issuance of a safety order and to propose that Respondent take measures specified herein to address the potential risk.

Response to this Notice

In accordance with § 190.239, you have 30 days following receipt of this Notice to submit a written response to the official who issued the Notice. If you do not respond within 30 days, this constitutes a waiver of your right to contest 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 Safety Order. In your response, you may notify that official that you intend to comply with the terms of the Notice as proposed, or you may request that an informal consultation be scheduled. Informal consultation provides you with the opportunity to explain the circumstances associated with the risk conditions alleged in the notice and, as appropriate, to present a proposal for a work plan or other remedial measures, without prejudice to your position in any subsequent hearing.

If you and PHMSA agree within 30 days of informal consultation on a plan and schedule for you to address each identified risk condition, we may enter into a written consent agreement (PHMSA would then issue an administrative consent order incorporating the terms of the agreement). If a consent agreement is not reached, or if you have elected not to request informal consultation, you may request an administrative hearing in writing within 30 days following receipt of the Notice or within 10 days following the conclusion of an informal consultation that did not result in a consent agreement, as applicable. Following a hearing, if the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to the public, property, or the environment in accordance with § 190.239, the Associate Administrator may issue a safety order.

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).

In your correspondence on this matter, please refer to CPF **5-2015-6002S** and for each document you submit, please provide a copy in electronic format whenever possible.

Proposed Corrective Measures

Pursuant to 49 U.S.C. § 60117(l) and 49 C.F.R. § 190.239, PHMSA proposes to issue a safety order to ASIG incorporating the following requirements with respect to the Tank Facility:

1. Within 30 days of receiving this Safety Order, develop and submit to the Director a Work Plan for performing an API 653 Out-of-Service Tank Inspection on each tank at the Tank Facility that has not received an API 653 Out-of-Service Tank inspection since December 2014. The Work Plan must utilize a risk based prioritization methodology, include a schedule, and must provide for all inspections and repairs to be complete by December 31, 2016. The Work Plan will be incorporated into the Safety Order.

2. Within 30 days of receiving this Safety Order, for any tank that has had an API 653 Out-of-Service Inspection performed since December 2014, submit the date of the inspection, and supporting inspection and repair documentation to the Director.

3. For API 653 Out of Service Inspections done before December 2014, the Director may consider exemption from the Work Plan based on an explanation and supporting documentation of the accuracy of the last API 653 Out-of-Service Inspection.

4. Once approved by the Director, implement the Work Plan according to the schedule set forth in it. Submit any changes to the Work Plan to the Director for approval prior to implementing the changes.

5. Within 30 days of receiving this Safety Order , submit the name, address and contact information of a third party inspector to be used to review the results of all API 653 Out-of-Service Tank Inspections performed as a result of this Safety Order for approval by the Director.

6. Once approved by the Director, utilize the services of the third-party inspector to review the records and results of each API 653 Out-of-Service Tank Inspection performed as a result of this Safety Order. Submit a report with the results of this review to the Director prior to placing the tank back into service.

7. Perform all necessary mandatory repairs required by the API 653 Out-of-Service Tank Inspections and submit evidence to the Director that each repair was completed properly prior to placing each tank back into service.

8. Perform all necessary non-mandatory repairs required by the API 653 Out-of-Service Tank Inspections and submit evidence to the Director that each repair was completed properly prior to placing each tank back into service. In lieu of performing the non-mandatory repairs, submit an explanation as to why the non-mandatory repairs do not need to be completed prior to placing the tank back into service to the Director for approval prior to placing the tank back into service. The Director will make a

determination as to whether or not the non-mandatory repairs must be completed prior to placing the tank back into service.

9. Submit monthly reports to the Director that: (1) include available data and results of the inspections required by the Safety Order; (2) describe the progress of the repairs and other remedial actions being undertaken; and (3) provide tank inventory data to demonstrate that the tanks are not leaking. The reports must be submitted on the 1st of each month beginning on July 1, 2015.

10. The Director may grant an extension of time for compliance with any of the terms of the Safety Order upon a written request submitted in a timely manner demonstrating good cause for an extension.

11. Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

12. It is requested (not mandated) that ASIG maintain documentation of the safety improvement costs associated with fulfilling this Safety Order and submit the total to the Director. 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 will be made.

The actions proposed by this Notice of Proposed Safety Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under 49 C.F.R. Parts 190 through 199, under any other order issued to Respondent under authority of 49 U.S.C. § 60101 et seq., or under any other provision of Federal or state law.

After receiving and analyzing additional data in the course of this proceeding and implementation of the work plan, PHMSA may identify other safety measures that need to be taken. In that event, Respondent will be notified of any proposed additional measures and, if necessary, amendments to the Work Plan or Safety Order will be made.

C. Hoidal

6/22/15

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

Date issued

General to bring an action in the appropriate U.S. District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, civil penalties, and punitive damages as provided under 49 U.S.C. 60120 and 49 U.S.C. 5123.

[70 FR 11139, Mar. 8, 2005]

§ 190.237 [Reserved]

§ 190.239 Safety orders.

(a) *When may PHMSA issue a safety order?* If the Associate Administrator finds, after notice and an opportunity for hearing under paragraph (b) of this section, that a particular pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator may issue an order requiring the operator of the facility to take necessary corrective action. Such action may include physical inspection, testing, repair or other appropriate action to remedy the identified risk condition.

(b) *How is an operator notified of the proposed issuance of a safety order and what are its responses options?* (1) *Notice of proposed safety order.* PHMSA will serve written notice of a proposed safety order under §190.5 to an operator of the pipeline facility. The notice will allege the existence of a condition that poses a pipeline integrity risk to public safety, property, or the environment, and state the facts and circumstances that support issuing a safety order for the specified pipeline or portion thereof. The notice will also specify proposed testing, evaluations, integrity assessment, or other actions to be taken by the operator and may propose that the operator submit a work plan and schedule to address the conditions identified in the notice. The notice will also provide the operator with its response options, including procedures for requesting informal consultation and a hearing. An operator receiving a notice will have 30 days to respond to the PHMSA official who issued the notice.

(2) *Informal consultation.* Upon timely request by the operator, PHMSA will provide an opportunity for informal consultation concerning the proposed safety order. Such informal consultation shall commence within 30 days, provided that PHMSA may extend this time by request or otherwise for good cause. Informal consultation provides an opportunity for the respondent to explain the circumstances associated with the risk condition(s) identified in the notice and, where appropriate, to present a proposal for corrective action, without prejudice to the operator's position in any subsequent hearing. If the respondent and Regional Director agree within 30 days of the informal consultation on a plan for the operator to address each risk condition, they may enter into a written consent agreement and the Associate Administrator may issue a consent order incorporating the terms of the agreement. If a consent agreement is reached, no further hearing will be provided in the matter and any pending hearing request will be considered withdrawn. If a consent agreement is not reached within 30 days of the informal consultation (or if informal consultation is not requested), the Associate Administrator may proceed under paragraphs (b)(3) through (5) of this section. If PHMSA subsequently determines that an operator has failed to comply with the terms of a consent order, PHMSA may obtain any administrative or judicial remedies available under 49 U.S.C. 60101 *et seq.* and this part. If a consent agreement is not reached, any admissions made by the operator during the informal consultation shall be excluded from the record in any subsequent hearing. Nothing in this paragraph (b) precludes PHMSA from terminating the informal consultation process if it has reason to believe that the operator is not engaging in good faith discussions or otherwise concludes that further consultation would not be productive or in the public interest.

(3) *Hearing.* An operator receiving a notice of proposed safety order may contest the notice, or any portion thereof, by filing a written request for a hearing within 30 days following receipt of the notice or within 10 days following the conclusion of informal consultation that did not result in a consent agreement, as applicable. In the absence of a timely request for a hearing, the Associate Administrator

may issue a safety order in the form of the proposed order in accordance with paragraphs (c) through (g) of this section.

(4) *Conduct of hearing.* An attorney from the Office of Chief Counsel, will serve as the Presiding Official in a hearing under this section. The hearing will be conducted informally, without strict adherence to formal rules of evidence in accordance with §190.211. The respondent may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether a safety order should be issued to address the alleged presence of a condition that poses a pipeline integrity risk to public safety, property, or the environment.

(5) *Post-hearing action.* Following a hearing under this section, the Presiding Official will submit a recommendation to the Associate Administrator concerning issuance of a final safety order. Upon receipt of the recommendation, the Associate Administrator may proceed under paragraphs (c) through (g) of this section. If the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator will issue a safety order under this section. If the Associate Administrator does not find that the facility has such a condition, or concludes that a safety order is otherwise not warranted, the Associate Administrator will withdraw the notice and promptly notify the operator in writing by service as prescribed in §190.5. Nothing in this subsection precludes PHMSA and the operator from entering into a consent agreement at any time before a safety order is issued.

(6) *Termination of safety order.* Once all remedial actions set forth in the safety order and associated work plans are completed, as determined by PHMSA, the Associate Administrator will notify the operator that the safety order has been lifted. The Associate Administrator shall suspend or terminate a safety order whenever the Associate Administrator determines that the pipeline facility no longer has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment.

(c) *How is the determination made that a pipeline facility has a condition that poses an integrity risk?* The Associate Administrator may find a pipeline facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator determines the particular facility has such a condition; or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique with a history of being susceptible to failure when used in pipeline service, unless the operator involved demonstrates that such equipment, material, or technique is not susceptible to failure given the manner it is being used for a particular facility.

(d) *What factors must PHMSA consider in making a determination that a risk condition is present?* In making a determination under paragraph (c) of this section, the Associate Administrator shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(3) The characteristics of the geographical areas where the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas;

(4) For hazardous liquid pipelines, the proximity of the pipeline to an unusually sensitive area;

(5) The population density and growth patterns of the area in which the pipeline facility is located;

(6) Any relevant recommendation of the National Transportation Safety

Board issued in connection with any investigation conducted by the Board;

(7) The likelihood that the condition will impair the serviceability of the pipeline;

(8) The likelihood that the condition will worsen over time; and

(9) The likelihood that the condition is present or could develop on other areas of the pipeline.

(e) *What information will be included in a safety order?* A safety order shall contain the following:

(1) A finding that the pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment;

(2) The relevant facts which form the basis of that finding;

(3) The legal basis for the order;

(4) The nature and description of any particular corrective actions to be required of the operator; and

(5) The date(s) by which the required corrective actions must be taken or completed and, where appropriate, the duration of the order.

(f) *Can PHMSA take other enforcement actions on the affected facilities?* Nothing in this section precludes PHMSA from issuing a Notice of Probable Violation under §190.207 or taking other enforcement action if noncompliance is identified at the facilities that are the subject of a safety order proceeding.

(g) *May I petition for reconsideration of a safety order?* Yes, a petition for reconsideration may be submitted in accordance with §190.243.

[73 FR 16567, Mar. 28, 2008, as amended at 74 FR 2893, Jan. 16, 2009; Amdt. 190–16, 78 FR 58913, Sept. 25, 2013]

§190.241 Finality.

Except as otherwise provided by §190.243, an order directing amendment issued under §190.206, a final order issued under §190.213, a corrective action order issued under §190.233, or a safety order issued under §190.239 is considered final administrative action on that enforcement proceeding.

[Amdt. 190–16, 78 FR 58913, Sept. 25, 2013]

§190.243 Petitions for reconsideration.

(a) A respondent may petition the Associate Administrator for reconsideration of an order directing amendment of plans or procedures issued under §190.206, a final order issued under §190.213, or a safety order issued under §190.239. The written petition must be received no later than 20 days after receipt of the order by the respondent. A copy of the petition must be provided to the Chief Counsel of the Pipeline and Hazardous Materials Safety Administration, East Building, 2nd Floor, Mail Stop E26–105, 1200 New Jersey Ave. SE., Washington, DC 20590 or by email to *phmsachiefcounsel@dot.gov*. Petitions received after that time will not be considered. The petition must contain a brief statement of the complaint and an explanation as to why the order should be reconsidered.

(b) If the respondent requests the consideration of additional facts or arguments, the respondent must submit the reasons why they were not presented prior to issuance of the final order.

(c) The filing of a petition under this section stays the payment of any civil penalty assessed. However, unless the Associate Administrator otherwise provides, the order, including any required corrective action, is not stayed.

(d) The Associate Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. If the Associate Administrator reconsiders an order under this section, a final decision on reconsideration may be issued without further proceedings, or, in the alternative, additional information, data, and comment may be requested by the Associate Administrator, as deemed appropriate.

(e) It is the policy of the Associate Administrator to expeditiously issue notice of the action taken on a petition for reconsideration. In cases where a substantial delay is expected, notice of that fact and the date by which it is expected that action will be taken is provided to the respondent upon request and whenever practicable.

(f) If the Associate Administrator reconsiders an order under this section, the decision on reconsideration is the final administrative action on that enforcement proceeding.

(g) Any application for judicial review must be filed no later than 89 days