

April 5, 2024

**VIA ELECTRONIC MAIL TO: paul.ruppert@bhegts.com**

Paul Ruppert  
President, Gas Transmission and Storage  
Eastern Gas Transmission and Storage, Inc.  
6603 West Broad Street  
Richmond, Virginia 23200

**Re: CPF No. 1-2023-027-NOPV**

Dear Mr. Ruppert:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$26,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA  
Mr. Matt Lamb, Vice President, Eastern Pipeline Operations, Eastern Gas  
Transmission and Storage, Inc., matt.lamb@bhegts.com  
Mr. Dan Stahl, Pipeline Integrity Engineer, Eastern Gas Transmission and Storage, Inc.,  
daniel.stahl@bhegts.com

**CONFIRMATION OF RECEIPT REQUESTED**



**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.631(j)(1), which states:

**§ 192.631(j)(1) Control room management.**

(a) ....

(j) *Compliance and deviations.* An operator must maintain for review during inspection:

(1) Records that demonstrate compliance with the requirements of this section; and

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(j)(1) by failing to maintain records that demonstrate compliance with § 192.631(h).<sup>2</sup> Specifically, the Notice alleged that EGTS failed to maintain documentation of a training program for training each controller to carry out their defined roles and responsibilities. The Notice also alleged that during the inspection EGTS was unable to provide any record of training its controllers to carry out their roles and responsibilities. Additionally, the Notice alleged that EGTS provided no records to demonstrate how controllers are operator qualified for the covered tasks associated with being a controller.

In its Response, Respondent argued that a Controller Training Program existed when PHMSA’s inspection took place between November 15 and 19, 2021, and that the program required its controllers to be operator qualified for covered tasks designated by EGTS.<sup>3</sup> Respondent argued that PHMSA reviewed the existing Controller Training Program during the inspection and was provided a copy of the program on November 19, 2021. EGTS stated that the existing Controller Training Program provided for the completion of an online course, test, and performance evaluation for covered task L04.1371 and completion of an online course and test for covered task M11.5751. EGTS contended that PHMSA received and reviewed the training records for a select sample of its controllers, which documented successful completion of the designated covered tasks L04.1371 and M11.5751. EGTS argued that the aforementioned training records for a select sample of its controllers sufficiently demonstrated how controllers are operator qualified for the covered task associated with being a controller. Additionally, in its Response, EGTS provided additional information demonstrating that it updated its Controller Training Program for the purpose of process improvement following receipt of the Post-inspection Written Preliminary Findings from PHMSA.

Section 192.631(j)(1) requires operators to maintain for review during an inspection records that demonstrate compliance with the requirements of § 192.631, including the requirements at § 192.631(h). Section 192.631(h) requires, among other things, operators to establish a controller training program and to train each controller to carry out the roles and responsibilities defined by the operator. The Notice made three allegations: first, that Respondent failed to maintain documentation of a training program; second, that it failed to provide any record of training its controllers; and third, that Respondent did not provide records to demonstrate how

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<sup>2</sup> Section 192.631(h) requires an operator to establish a controller training program that “must provide for training each controller to carry out the roles and responsibilities defined by the operator.”

<sup>3</sup> The covered tasks EGTS noted include L04.1371 Operate Gas Pipeline – System Control Center Operations, and M11.5751 Recognize and React to Generic Abnormal Operating Conditions [hereinafter “L04.1371” and “M11.5751”].

controllers are operator qualified.

With regard to the first allegation that Respondent failed to maintain documentation of a training program, the record shows that Respondent provided a copy of its controller training program to PHMSA during the inspection. In the Region Director's written evaluation of Respondent's response material made pursuant to § 190.207(b)(7), the Region Director did not dispute that a copy of the controller training program was provided. Accordingly, contrary to the first allegation, the record in this case demonstrates Respondent did have documentation of a training program and provided that documentation to PHMSA during the inspection. Therefore, this allegation is withdrawn.

With regard to the second allegation that Respondent failed to provide any record of training its controllers, the record shows that during the inspection, Respondent did not provide training records associated with all controllers. Furthermore, in its Response to the allegation in the Notice that Respondent did not provide training records documenting training each controller to carry out defined roles and responsibilities, Respondent did not produce any additional records demonstrating the training of each controller. Because Respondent did not maintain, and produce for review, records that demonstrate each controller had been trained, I find Respondent did not comply with § 192.631(j)(1).

Finally, with regard to the allegation that Respondent did not provide records to demonstrate how controllers are operator qualified, I note that while the controller training program established by 49 C.F.R. § 192.631(h) ensures controllers are properly trained, operators must also comply with additional operator qualification (OQ) requirements contained in 49 CFR Part 192, Subpart N. Specifically, 49 C.F.R. § 192.801 prescribes the minimum OQ requirements for individuals, including controllers, who perform covered tasks on a pipeline facility. Operators are also required to maintain OQ records pursuant to § 192.807. The Notice did not allege a violation of the OQ requirements in Subpart N. Furthermore, Respondent provided additional information in its Response that it had designated two covered tasks associated with being a controller in its training program under 49 C.F.R. § 192.631(h). Respondent stated that the covered task associated with control center operations (L04.1371) required the successful completion of an online course, test, and performance evaluation, while the covered task associated with recognizing and reacting to generic abnormal operating conditions (M11.5751) required the successful completion of an online course and test. Based on the Notice's failure to allege a violation of 49 CFR Part 192, Subpart N, and the additional information provided by Respondent, I find that a finding of violation on such a basis is not warranted. Accordingly, this allegation is withdrawn.

In conclusion, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(j)(1) by failing to maintain and produce records that demonstrate the training of each controller to carry out the roles and responsibilities defined by the operator. The additional allegations that Respondent failed to maintain documentation of a training program and failed to demonstrate how controllers are operator qualified are withdrawn.

## ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, Respondent is subject to an administrative civil penalty not to exceed \$257,664 per violation for each day of the violation, up to a maximum of \$2,576,627 for any related series of violations.<sup>4</sup>

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$26,000 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$26,000 for Respondent's alleged violation of 49 C.F.R. § 192.631(j)(1) for failing to maintain records that demonstrate compliance with § 192.631(h). In its Response, Respondent did not separately address the proposed civil penalty amount or present any evidence or argument that warrants reducing or eliminating the proposed penalty.<sup>5</sup> Accordingly, for the reasons above, I assess Respondent a penalty of \$26,000 for violation of 49 C.F.R. § 192.631(j)(1).

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to 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 (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the 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 district court of the United States.

## WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of Part 192, but identified it as a warning item pursuant to § 190.205. The warning was for:

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<sup>4</sup> These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

<sup>5</sup> Although two of the three allegations are withdrawn, this does not result in a penalty reduction because the proposed penalty amount was based on a single allegation of violation. See Violation Report, at 8.

49 C.F.R. § 192.631(j)(1) (**Item 2**) — Respondent’s alleged failure to maintain documentation demonstrating that field personnel contacted the control room when making field changes that affect control room operations in accordance with the requirements of § 192.631(f)(2).

EGTS presented information in its Response showing that it had taken certain actions to address the cited item. If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

April 5, 2024

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued