

September 24, 2024

**VIA ELECTRONIC MAIL TO: sburrows@pembina.com**

Scott Burrows  
President and Chief Executive Officer  
Pembina Cochin, LLC  
4000, 585-8<sup>th</sup> Avenue S.W.  
Calgary, Alberta, Canada T2P1G1

**Re: CPF No. 3-2024-004-NOPV**

Dear Mr. Burrows:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$136,500, and specifies actions that need to be taken by Pembina Cochin, LLC, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. 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. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA  
Mr. Bob Bachmeier, Specialist, Regulatory, Pembina Cochin, LLC,  
bbachmeier@pembina.com

Ms. Heather Christie-Burns, Vice President, Transmission Pipelines, Pembina Cochin, LLC,  
hcburns@pembina.com

Mr. Scott Seibert, Manager, Regulatory & Environment, US Operations, Pembina Cochin,  
LLC, sseibert@pembina.com

Mr. Jeff Finch, Senior Advisor, Regulatory, Pembina Cochin, LLC,  
jfinch@pembina.com

Ms. Amanda Kennedy, Manager, Pipeline Control Centre, Pembina Cochin, LLC,  
akennedy@pembina.com

Mr. Pete Marquart, Manager, U.S. Pipeline District, Pembina Cochin, LLC,  
pmarquart@pembina.com

CONFIRMATION OF RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

<b>In the Matter of</b>	)	
	)	
<b>Pembina Cochin, LLC,</b>	)	<b>CPF No. 3-2024-004-NOPV</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

From August 15 through September 28, 2022, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Pembina Cochin, LLC’s (Pembina or Respondent) records and procedures for Control Room Management (CRM) in Edmonton, Alberta, Canada. PHMSA also reviewed the records of Vantage Pipeline US, LP (Vantage), a subsidiary of Pembina Cochin, LLC.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated March 1, 2024, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Pembina had committed eight violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$136,500 for the alleged violations, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included an additional four warning items pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violations or face possible future enforcement action.

Pembina responded to the Notice by letter dated March 29, 2024 (Response). The company did not contest the allegations of violation and agreed to complete the proposed compliance actions but requested additional time to carry out certain terms of the compliance order. Respondent did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

In its Response, Pembina did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

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<sup>1</sup> Vantage controls Vantage Pipeline and Vantage Pipeline is controlled by the Pembina control room.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(1), which states:

**§ 195.446 Control room management.**

(a) . . . .

(c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) Implement API RP 1165 (incorporated by reference, *see* § 195.3) whenever a SCADA system is added, expanded or replaced, unless the operator demonstrates that certain provisions of API RP 1165 are not practical for the SCADA system used;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(1) by failing to implement API RP 1165 for its supervisory control and data acquisition (SCADA) system that became operational on November 1, 2017. Specifically, the Notice alleged that Pembina commissioned a new SCADA system in November 2017, but did not have a CRM Plan for its US assets until December 17, 2018.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(c)(1) by failing to implement API RP 1165 for its added SCADA system.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(2), which states:

**§ 195.446 Control room management.**

(a) . . . .

(c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) . . . .

(2) Conduct a point-to-point verification between SCADA displays and related field equipment when field equipment is added or moved and when other changes that affect pipeline safety are made to field equipment or SCADA displays;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(2) by failing to conduct point-to-point verifications. Specifically, the Notice alleged that a review of a point-to-point verification record for Vantage West Block Valve 2 provided three spreadsheets which were inadequate and failed to accurately include safety related tags or document whether point-to-point verification was done under live or simulated conditions.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(c)(2) by failing to conduct point-to-point verifications.

**Item 4:** The Notice alleged that Respondent violated § 195.446(c)(3), which states:

**§ 195.446 Control room management.**

(a) . . . .

(c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) . . . .

(3) Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(3) by failing to test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months. Specifically, the Notice alleged that Pembina did not have a procedure for an internal communication plan and that such a plan was never tested and verified per § 195.446(c)(3). Consequently, Pembina failed to test an internal communication plan for the safe manual operation of the pipeline in 2019, 2020, and 2021, exceeding the timeline mandated in § 195.446(c)(3) of testing and verifying at least once each calendar year, with intervals not to exceed 15 months.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(c)(3) by failing to test and verify an internal communication plan for the safe operation of the pipeline.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(4), which states:

**§ 195.446 Control room management.**

(a) . . . .

(c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) . . . .

(4) Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(4) by failing to test its backup control room system at least once each calendar year, but at intervals not to exceed 15 months. Specifically, the Notice alleged that Respondent failed to test its backup system in 2020 due to complications with COVID-19 (COVID). Per the March 20, 2020, “Notice of Stay of Enforcement and Notice of Enforcement Discretion to Operators Affected by the Coronavirus (COVID-19) Outbreak,” operators were informed that any noncompliance due to COVID must

be promptly documented and PHMSA must be promptly notified, both of which Pembina failed to do.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(c)(4) by failing to test its backup control room system in 2020.

**Item 7:** The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e)(2), which states:

**§ 195.446 Control room management.**

(a) . . . .

(e) *Alarm management.* Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:

(1) . . . .

(2) Identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e)(2) by failing to identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities. Specifically, the Notice alleged that for the years 2019, 2020, and 2021, Respondent failed to follow its procedures for collecting and reviewing safety-related points in SCADA, false alarms, and determining if forced or manual value time periods exceeded permissible limits. In addition, the Notice alleged that while the procedure made statements directing controllers to conduct the monthly review, it lacked detail necessary to ensure compliance.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(e)(2) by failing to identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities.

**Item 9:** The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e)(4), which states:

**§ 195.446 Control room management.**

(a) . . . .

(e) *Alarm management.* Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:

(1) . . . .

(4) Review the alarm management plan required by this paragraph at least once each calendar year, but at intervals not exceeding 15 months, to determine the effectiveness of the plan;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e)(4) by failing to review its Alarm Management Plan to determine effectiveness at least once each calendar year, with intervals not to exceed 15 months. Specifically, the Notice alleged that the 2019 review was completed on March 15, 2019, and the 2020 review was completed on December 4, 2020, which exceeds time by 175 days. Additionally, the reviews completed in 2019 and 2020 were insufficient by only providing “Yes” or “No” responses. Finally, Pembina did not complete a review in 2021.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(e)(4) by failing to review its Alarm Management Plan to determine effectiveness at least once each calendar year, with intervals not to exceed 15 months.

**Item 11:** The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(6), which states:

**§ 195.446 Control room management.**

(a) . . . .

(h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator’s program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1) . . . .

(6) Control room team training and exercises that include both controllers and other individuals, defined by the operator, who would reasonably be expected to operationally collaborate with controllers (control room personnel) during normal, abnormal or emergency situations. Operators must comply with the team training requirements under this paragraph no later than January 23, 2018.

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(6) by failing to establish a controller training program that includes control room team training. Specifically, the Notice alleged that Pembina failed to identify those personnel who collaborate with controllers by January 23, 2018, and Pembina failed to conduct team training by January 23, 2019.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(h)(6) by failing to establish a controller training program that includes control room team training.

**Item 12:** The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b), which states:

### **§ 195.505 Qualification program.**

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

- (a) . . . .
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b) by failing to ensure through evaluation that an individual performing covered tasks was qualified under Respondent's US Operator Qualification (OQ) program. Specifically, the Notice alleged that Pembina records indicated the relevant controller was qualified under the Canadian OQ plan in and around September 2018, but under Pembina CRM section 4.2 it specifically states, "US Operators are qualified in accordance with the US OQ Program, not the Canadian TMQ."

Respondent did not contest this allegation of violation. Post inspection, the operator provided qualification records that met the requirements of Respondent's US OQ Plan and no further action was required. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(b) by failing to qualify one controller under the US OQ program.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>2</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 \$136,500 for the violations cited above.

**Item 4:** The Notice proposed a civil penalty of \$34,200 for Respondent's violation of 49 C.F.R. § 195.446(c)(3), for failing to test and verify an internal communication plan for the safe operation of the pipeline. Pembina neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$34,200 for

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<sup>2</sup> These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.



violation of 49 C.F.R. § 195.446(c)(3).

**Item 5:** The Notice proposed a civil penalty of \$33,500 for Respondent's violation of 49 C.F.R. § 195.446(c)(4), for failing to test its backup control room system in 2020. Pembina neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$33,500 for violation of 49 C.F.R. § 195.446(c)(4).

**Item 9:** The Notice proposed a civil penalty of \$33,500 for Respondent's violation of 49 C.F.R. § 195.446(e)(4), for failing to review its Alarm Management Plan to determine effectiveness for the years 2021, 2020, and 2019. Pembina neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$33,500 for violation of 49 C.F.R. § 195.446(e)(4).

**Item 11:** The Notice proposed a civil penalty of \$33,500 for Respondent's violation of 49 C.F.R. § 195.446(h)(6), for failing to establish a controller training program that includes control room team training. Pembina neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$33,500 for violation of 49 C.F.R. § 195.446(h)(6).

**Item 12:** The Notice proposed a civil penalty of \$1,800 for Respondent's violation of 49 C.F.R. § 195.505(b), for failing to qualify one controller under the US OQ program. Pembina neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$1,800 for violation of 49 C.F.R. § 195.505(b).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$136,500**.

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.

## COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 2, 3, 4 and 7 in the Notice for violations of 49 C.F.R. §§ 195.446(c)(1), 195.446(c)(2), 195.446(c)(3) and 195.446(e)(2), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

In its Response, Respondent agreed to complete the proposed compliance order but requested additional time to carry out the compliance actions for Items 2, 3, and 4. In the Regional Director's written evaluation of the response material submitted pursuant to § 190.209(b)(7), the Director recommended the additional time be granted. Accordingly, the terms of the compliance order for Items 2, 3, and 4 are modified as set forth below.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.446(c)(1) (**Item 2**), Respondent must complete an audit of the SCADA system against API RP 1165 (incorporated by reference, see § 195.3) and correct any deficiencies identified within 120 days of receipt of the Final Order.
2. With respect to the violation of § 195.446(c)(2) (**Item 3**), Respondent must amend its point-to-point verification procedure to provide a thorough verification process and then conduct a point-to-point verification on Vantage Block Valve MP008, West Spur Lateral WSL02, and Ottawa and Tampico within 120 days of receipt of the Final Order.
3. With respect to the violation of § 195.446(c)(3) (**Item 4**), Respondent must develop an Internal Communication plan for safe manual operation of the pipeline and a procedure to test the plan, and then test the plan within 120 days of receipt of the Final Order.
4. With respect to the violation of § 195.446(e)(2) (**Item 7**), Respondent must amend its procedure to demonstrate compliance and conduct the monthly review using the plan. Pembina must provide to PHMSA three consecutive months of records of the monthly reviews that demonstrate compliance within 120 days of receipt of the Final Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties exceeding \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223 for adjusted amounts), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

### **WARNING ITEMS**

With respect to Items 1, 6, 8 and 10, the Notice alleged probable violations of Part 195, but identified them as warning items pursuant to § 190.205. The warnings were for:

49 C.F.R. § 195.446(a) **(Item 1)** — Respondent’s alleged failure to have a CRM plan applicable to its regulated hazardous liquid pipeline facilities prior to the start of its US assets operation on November 1, 2017;

49 C.F.R. § 195.446(d)(3) **(Item 6)** — Respondent’s alleged failure to follow the procedure in its Fatigue Risk Management Process Version 4, dated June 6, 2022, section 5.1.2 by failing to have three controllers complete fatigue training annually with intervals not to exceed 15 months. Three controllers were identified as not completing fatigue training: two in 2020 and one in 2019;

49 C.F.R. § 195.446(e)(3) **(Item 8)** — Respondent’s alleged failure to provide adequate records for 2019, 2020, and 2021, as required by § 195.446(j)(1) to demonstrate compliance with verifying the correct safety-related alarm set point values and alarm descriptions when associated field instruments were calibrated or changed at least once each calendar year with intervals not to exceed 15 months; and

49 C.F.R. § 195.446(e)(5) **(Item 10)** — Respondent’s alleged failure to follow its procedure for completing the controller work activity review. Specifically, section 3.9.2 IV of US ALM states, “[V]antage will perform an activity review 8 times each year.” In 2019 only four assessments were completed, and in 2021 the person-to-person activity monitoring was not completed, as also required by section 3.9.2 IV.

If OPS finds a violation of any of these items 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, 2<sup>nd</sup> 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 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 corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

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

September 24, 2024

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued