



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

12300 W. Dakota Ave., Suite 340
Lakewood, CO 80228

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

VIA ELECTRONIC MAIL TO: rob.johnson@wbienenergy.com

December 8, 2025

Mr. Rob Johnson
President
WBI Energy Transmission Inc.
1250 W. Century Avenue
Bismarck, ND 58503

CPF 5-2025-039-NOPV

Dear Mr. Johnson:

From June 17 through June 31 and July 8 through July 12, 2024, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected WBI Energy Transmission Incorporated's (WBI) control room management and procedures in Bismarck, North Dakota.

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. § 192.631 Control room management.

(a) *General.*

(1) ...

(2) The procedures required by this section must be integrated, as appropriate, with operating and emergency procedures required by §§ 192.605 and 192.615. An operator must develop the procedures no later than August 1, 2011, and must

implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.

WBI failed to develop and implement procedures required by paragraph (e) of this section, as required.

Specifically, WBI failed to develop and implement a procedure to monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not to exceed 15 months, that would assure controllers have sufficient time to analyze and react to incoming alarms, as required by § 192.631(e)(5).

During the inspection, PHMSA reviewed WBI's Gas Control Manual, Section 2, Alarm Management Plan (AMP), dated December 12, 2023. While reviewing the Gas Control Manual, PHMSA observed that it did not contain a procedure to monitor the content and volume of general activity that was being directed to and required of each controller at least once each calendar year, at intervals not to exceed 15 months. PHMSA observed that the requisite monitoring of content and volume of general activity, commonly identified as a Workload Assessment, was absent and the AMP was silent regarding this requirement.

WBI also provided PHMSA personnel a revised AMP, dated November 25, 2024. That AMP also lacked a procedure for conducting a Workload Assessment.

During the control room management inspection, WBI presented records indicating a Controllers Work Time Study had been conducted, however, in the absence of a developed and implemented procedure, PHMSA personnel were unable to perform a comprehensive evaluation of this study.

Therefore, WBI failed to develop and implement a procedure required by paragraph (e) of § 192.631, as required by § 192.631(a)(2).

2. § 192.631 Control room management.

(a) General.

(b) ...

(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 sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165 (incorporated by reference, see § 192.7) whenever a SCADA system is added, expanded or replaced, unless the operator demonstrates that certain provisions of sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165 are not practical for the SCADA system used;

WBI failed to follow its written procedure when changes were made to the SCADA system and displays to verify implementation of sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165, as required.

During the inspection, PHMSA reviewed WBI's Gas Control Manual (GCM), dated December 12, 2023, Section 1 - Subsection 1.4.2 SCADA/SCADA Screen Changes/Updates, which required WBI's Gas Control Manager to ensure compliance with API RP 1165 was verified and documentation was complete. Further, a review of WBI's GCM, Section 3 – Subsection 3.8.5, SCADA API RP 1165 Review Procedure revealed it required WBI personnel to use the SCADA Screen Review Form when documenting compliance with API RP 1165. Subsection 3.8.6 of the GCM required a minimum 5 year file retention for documentation of compliance with API RP 1165, and the documenting of a reason if a section of API RP 1165 was not practical for the SCADA system used.

PHMSA learned during the inspection that WBI completed an upgrade to its control room SCADA system in June 2022. However, WBI failed to provide any records to substantiate full implementation of all sections required under the applicable regulatory provisions. Therefore, PHMSA was unable to verify whether all applicable requirements were fully implemented.

WBI was required per § 192.631(j)(1) to maintain for review during an inspection records that demonstrated compliance with § 192.631(c)(1). Without such records, PHMSA cannot verify the operator demonstrated compliance with its procedures and the requirements of the pipeline safety regulations.

Therefore, WBI failed to follow its written procedures when it upgraded its SCADA system in June 2022, to verify implementation of sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165, as required by § 192.631(c)(1).

3. § 192.631 Control room management. *General.*

(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;

WBI failed to identify at least once each calendar month points affecting safety that had been taken off scan in the SCADA host, had alarms inhibited, generated false alarms, or that had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities, as required.

Specifically, during the inspection, PHMSA personnel reviewed monthly alarm reviews dated April 2021, August 2022, and February 2023. PHMSA observed that the monthly alarm reviews did not encompass all alarms required by regulation but, instead focused solely on critical and non-critical alarms. The reviews dated April 2021, August 2022, and February 2023 omitted an assessment of false alarms.

Therefore, WBI failed to identify once each calendar month points affecting safety that had been taken off scan in the SCADA host, had had alarms inhibited, generated false alarms, or had had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities, as required by § 192.631(e)(2).

4. § 192.631 Control room management.

(a) General.

(b) ...

(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) Responding to abnormal operating conditions likely to occur simultaneously or in sequence;

WBI failed to provide training to each controller to respond to abnormal operating conditions likely to occur simultaneously or in sequence, as required.

Specifically, during the inspection, WBI failed to provide any documentation demonstrating controllers were trained to appropriately respond to abnormal operating conditions that are likely to occur simultaneously or sequentially.

WBI was required per § 192.631(j)(1) to maintain for review during an inspection records that demonstrated compliance with § 192.631(h)(1). Without such records, PHMSA cannot verify an operator complied with the requirements of the pipeline safety regulations.

Therefore, WBI failed to provide training to each controller to respond to abnormal operating conditions likely to occur simultaneously or in sequence, as required by § 192.631(h)(1).

5. § 192.631 Control room management.

(a) General.

(b) ...

(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.

(1) ...

(2) Use of a computerized simulator or non-computerized (tabletop) method for training controllers to recognize abnormal operating conditions;

WBI failed to provide training for each controller with the use of a computerized simulator or non-computerized (tabletop) method for training controllers to recognize abnormal operating conditions, as required.

Specifically, during the inspection WBI stated they do not use a computerized simulator to train controllers. PHMSA requested to review WBI's non-computerized or tabletop method records for training controllers to recognize abnormal operating conditions. WBI failed to provide any records or other documentation demonstrating that controllers received such training.

WBI was required per § 192.631(j)(1) to maintain for review during an inspection records that demonstrate compliance with § 192.631(h)(2). Without such records, PHMSA cannot verify an operator complied with the requirements of the pipeline safety regulations.

Therefore, WBI failed to provide tabletop training for each controller to recognize abnormal operating conditions as required by § 192.631(h)(2).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$272,926 per violation per day the violation persists, up to a maximum of \$2,729,245 for a related series of violations. For violation occurring on or after December 28, 2023 and before December 30, 2024, the maximum penalty may not exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 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.

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.

Proposed Compliance Order

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 WBI Energy Transmission Inc. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to items 2, 3, 4, and 5, 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. All material you submit in response to this enforcement action may be 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 5-2025-039-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 D. Fehling (24-296470)
Marc Dempewolf, VP of Operations, WBI Energy Transmission, Inc.,
marc.dempewolf@wbienergy.com
Brian McDanold, DOT Compliance Primary, WBI Energy Transmission, Inc.,
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PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice pertaining to failure to develop and implement a procedure for monitoring the content and volume of general activity being directed to and required of each controller that will assure controllers have sufficient time to analyze and react to incoming alarms, WBI Energy Transmission Inc., must develop and implement a procedure and submit for review and approval by PHMSA within **90** days of receipt of the Final Order.
- B. In regard to Item 1 of the Notice pertaining to developing and implementing the procedure referenced in paragraph A, after PHMSA has reviewed and approved the submitted procedure, WBI Energy Transmission Inc., must conduct the assessment by following the procedure within **90** days of receipt of the Final Order, and submit documentation of this assessment to the Director for review.
- C. It is requested (not mandated) that WBI Energy Transmission Inc. 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.