

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

**UPS NEXT DAY AIR and FACSIMILE**

September 13, 2012

Mr. Richard Adams  
Vice President U.S. Operations  
Enbridge Pipelines (Toledo) Inc.  
City Center Office  
1409 Hammond Avenue  
Superior, WI 54880-5247

**CPF 3-2012-5020**

Dear Mr. Adams:

On July 12-15, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your 16-inch crude oil pipeline from Stockbridge, Michigan to Oregon, Ohio.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

- 1. §195.412 Inspection of rights-of-way and crossings under navigable waters.**
  - (a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.**

Enbridge Pipelines (Toledo) Inc. {Enbridge} failed to adequately inspect the surface conditions at the main line valve located at Hoffman Road (Toledo) at an interval not exceeding 3 weeks, but at least 26 times each calendar year. The valve location was overgrown with brush.

Records indicate the pipeline was inspected by aerial patrol. During PHMSA's field inspection, the main line valve located at Hoffman Road was observed to be overgrown with small trees and brush; therefore, the surface conditions of this section of pipeline was not adequately inspected during the aerial patrols.

2. **§195.428 Overpressure safety devices and overflow protection system**

**(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.**

Enbridge failed to inspect the overpressure safety devices at intervals not exceeding 15 months, but at least once each calendar year. The inspection intervals exceeded the maximum 15 month interval by 14-24 days for each of the following overpressure safety devices:

1. VA170197-08 – 24 days
2. VA170197-02 – 24 days
3. VA170197-07 – 24 days
4. VA197173 -9 – 24 days
5. VA0168708-49 – 24 days
6. VA0168708-39 – 24 days
7. VA0168708-18 – 24 days
8. VA0168718-21 – 24 days
9. Britton 30304-1 – 24 days
10. Danflo 800-PSE-1 – 17 days
11. FB#1 4684-1 – 14 days
12. FB#2 4684-2 – 14 days

**3. §195.432 (d) Inspection of in-service breakout tanks**

**(d) The intervals of inspection specified by documents referenced in paragraphs (b) and (c) of this section begin on May 3, 1999, or on the operator's last recorded date of the inspection, whichever is earlier.**

Enbridge failed to perform internal inspections or establish a corrosion rate for the bottom plates of the following tanks within the 10 year period prescribed by API Standard 653, and exceeded the maximum internal inspection interval for tanks 300-TK-80 and 300-TK-81. API 653 Section 6.4.2 describes the method for establishing the inspection intervals for internal inspections. Section 6.4.2 requires the calculation of the internal inspection intervals in accordance with Section 4.4.7 of the standard, with a maximum internal inspection interval of 20 years. If, however, the corrosion rates are unknown, the maximum inspection interval is not to exceed 10 years, unless similar service experience is available to estimate the bottom plate thickness at the next inspection. Enbridge failed to demonstrate that they had established a basis for the corrosion rate for the tank bottoms listed above; and exceeded the 10 year maximum internal inspection interval for unknown corrosion rates. Additionally, Enbridge did not have similar service experience, or procedures to apply similar service experience available to make this inspection interval determination.

The records reviewed demonstrate the last internal inspection performed for Tank #300-TK-80 was performed on June 25, 1998. Tank#300-TK-81 was put into service in 1999 and an internal inspection was not performed until 2011. No calculations were provided that establishes a corrosion rate for the bottom plate. Inspection dates for future internal and external inspections on these tanks have been provided to PHMSA.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 for each violation for each day the violation persists up to a maximum of \$2,000,000 for any related series of violations. For violations occurring prior to January 3, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$68,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$39,000
3	\$29,600

### Warning Items

With respect to item 1, 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 this item. Failure to do so may result in additional enforcement action.

### Proposed Compliance Order

With respect to items 2 and 3 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Enbridge. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

### Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance 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). 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.

In your correspondence on this matter, please refer to **CPF 3-2012-5020** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

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

## **PROPOSED COMPLIANCE ORDER**

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

1. In regard to Item Number 2 of the Notice pertaining to the inspection of overpressure safety devices, Enbridge shall submit documentation of all inspections performed on each of the devices listed in Item Number 2 from 2010 to present.
2. In regard to Item Number 2 of the Notice pertaining to the inspection of overpressure safety devices, Enbridge shall submit the required documentation within 30 days after receipt of the Final Order.
3. In regard to Item Number 3 of the Notice pertaining to the inspection of in-service breakout tanks, Enbridge shall internally inspect each of the tanks in accordance with the inspection dates proposed by Enbridge and submit copies of the API 653 inspection reports for Tanks 80 and 81.
4. In regard to Item Number 3 of the Notice pertaining to the internal inspection of in-service breakout tanks, Enbridge shall submit the required documentation within 30 days after receipt of the Final Order. If the 2012 inspection for Tank 80 has not been completed, the inspection record shall be submitted within 30 days after completion of the internal inspection.
5. It is requested that Enbridge maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to David Barrett, Director, Central 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.