



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

1200 New Jersey Avenue, SE
Washington, DC 20590

August 9, 2021

VIA ELECTRONIC MAIL TO: michael.koby@enbridge.com

Michael Koby
Vice President, U.S. Operations
Enbridge Energy, LP
5400 Westheimer Court
Houston, Texas 77056

Re: CPF No. 3-2020-5009

Dear Mr. Koby:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one of the allegations of violation, makes other findings of violation, assesses a reduced civil penalty of \$98,900, and specifies actions that need to be taken by Enbridge Energy, LP 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 electronic mail is effective upon the date of transmission as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER
MAYBERRY

Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2021.08.05
16:34:52 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. David Stafford, Manager, U.S. Pipeline Compliance, Enbridge Energy, LP,
david.stafford@enbridge.com

CONFIRMATION OF RECEIPT REQUESTED

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

| | | |
|----------------------|---|----------------------------|
| In the Matter of |) | |
| Enbridge Energy, LP, |) | |
| Respondent. |) | CPF No. 3-2020-5009 |

FINAL ORDER

From January 16, 2018 through July 20, 2018, 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 the facilities and records of Enbridge Energy, LP (Enbridge or Respondent) for the Lakehead and Flanagan systems in North Dakota, Wisconsin, Michigan, Illinois, Ohio, Minnesota, Indiana, and New York. Enbridge Energy, LP is a subsidiary of Enbridge, Inc., and operates over 4,000 miles of pipeline across those states.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated November 19, 2020, 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 Enbridge had committed ten violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$122,100 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

After requesting and receiving an extension of time to respond, Enbridge responded to the Notice by letter dated January 19, 2021 (Response). Enbridge contested several of the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.116(e), which states:

§ 195.116 Valves.

Each valve installed in a pipeline system must comply with the

following:

(a) . . .

(e) Each valve other than a check valve must be equipped with a means for clearly indicating the position of the valve (open, closed, etc.).

The Notice alleged that Respondent violated 49 C.F.R. § 195.116(e) by failing to maintain a means for clearly indicating the position of the valves. Specifically, the Notice alleged that nine of Enbridge’s valves noted below were identified by PHMSA’s field inspections as not having clear means of indicating the valve position. The identified protectors were not transparent due to smoke coloring or grease preventing clear indication of the valve stem position.

| Unit | Valve | Comments |
|----------|------------|---|
| Bay City | 532.74-6V | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | 536.42-6-V | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | 576.92-6-V | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | 607.62 | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | 638.45-6-V | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | 576.82-6-V | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | 6-UD-V-21 | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | SK-6-SV-3 | Valve stem cover smoke colored, can’t see valve stem. |
| Bay City | 6-TBV-2 | Valve stem cover smoke colored, can’t see valve stem. |

In its Response, Enbridge contested the allegation. First, Enbridge stated that the valve at 6-UD-V-21 is “located indoors and appears to have been inadvertently included.” Second, with regard to the remaining valves, Enbridge stated that “the position of the valve stems for each referenced valve can be seen, clearly indicating whether it is in the open or closed position” and could be “determined by observing the visible light passing through the cover on either side of the threaded valve stems.” Third, Enbridge argued the “valve protectors remain transparent” and provided photographs in support. Fourth, Enbridge stated that the standard cited above is a “design standard, not an operating and maintenance standard, which calls for the installation of transparent valve stem protectors” while design standards do not. Finally, Enbridge stated that it is “axiomatic” that discoloration will occur, that it is “acceptable,” and that it “does not prevent operator personnel from seeing the valve stem and determining the position of each valve stem.”

After considering the additional information and explanations provided by Enbridge, I agree that the valve at 6-UD-V-21 did not exhibit smoky discoloration and was equipped with a means for clearly indicating the position of the valve. Therefore, this alleged instance of violation should be withdrawn. However, with regard to the remaining valves, I disagree with Respondent. The evidence shows the remaining eight valves did have discoloration that inhibited the ability to determine the valve position. Respondent’s contention that § 195.116(e) did not require valve stem protectors to remain clear after installation is not a position I find supported by the text of the regulation, which states that each valve installed in a pipeline system “must be equipped with a means for clearly indicating the position of the valve.” Accordingly, even a properly installed valve would cease to be in compliance if it no longer has means for clearly indicating the valve

position.¹ While it may be “axiomatic” that some discoloration will occur, excess discoloration that prevents a clear indication of valve position does not comply with the regulation. In the Director’s written evaluation of the response material pursuant to § 190.209(b)(7), the Director noted that the photos provided by Enbridge were taken “right next to the valve stem” and that in practice the stem may be located on an elevated platform away from Enbridge personnel. As a result, the photographs fail to show that there is a means for clearly indicating the position of the valve. The Director also noted that PHMSA representatives observed Enbridge personnel removing valve stem covers during the day to observe the valve position because the smoky discoloration inhibited their view.

Accordingly, after considering all of the evidence and the legal issues presented, I find that Respondent violated 49 C.F.R. § 195.116(e) by failing to maintain a means for clearly indicating the position of eight valves. The valve 6-UD-V-21 instance of violation is hereby withdrawn.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to review its operations and maintenance manual at intervals not exceeding 15 months, but at least once every calendar year. Specifically, the Notice alleged that Enbridge did not review Book 3 08-03-02 through 08-03-21 in calendar year 2017 and was unable to provide documentation of such review that was signed and dated as required by Enbridge procedures.

In its Response Enbridge clarified that the absence of signature and date was the result of an inadvertent deletion when the review forms were merged in Enbridge’s submission to PHMSA. Enbridge provided original dated forms with the proper signature in its Response.

Accordingly, after considering all of the evidence, I find that Enbridge did not violate § 195.402(a) as alleged in the Notice. Based upon the foregoing, I hereby order that Item 2 be withdrawn.

¹ Additional safety regulations are also applicable. *See, e.g.*, §§ 195.420(a) (requiring operators to “maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times”) and 195.402(c)(3) (requiring operators prepare and follow a procedural manual for “operating, maintaining, and repairing the pipeline system”).

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(e)(9), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

(b)

(e) *Emergencies.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs:

(1)

(9) Providing for a post accident review of employee activities to determine whether the procedures were effective in each emergency and taking corrective action where deficiencies are found.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(e)(9) by failing to conduct a post-accident review of employee activities for one pipeline accident, which resulted in a release of hazardous liquid. Specifically, the Notice alleged that Enbridge did not conduct a post-accident review of employee activities for the pipeline accident that occurred on the Lakehead system on February 29, 2016, reported to PHMSA on DOT Form 7000-1.

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. § 195.402(e)(9) by failing to conduct a post-accident review of employee activities for one pipeline accident, which resulted in a release of hazardous liquid.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overfill protection systems.

(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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test

each overpressure safety device, at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity. Specifically, the Notice alleged that five pressure safety devices were not inspected and tested within the required time period as identified during PHMSA's records inspection.

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. § 195.428(a) by failing to inspect and test each overpressure safety device listed above.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overfill protection systems.

(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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to test and inspect, 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 (HVLs), at intervals not to exceed 7 ½ months, but at least twice each calendar year, each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it was adequate from the standpoint of capacity for the service in which it was used. Specifically, the Notice alleged that Enbridge did not conduct a calculated capacity review for 39 devices (totaling 98 capacity checks) in the Lakehead system to determine they were adequate from the standpoint of capacity for the service in which they were used from 2016 through 2017.

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. § 195.428(a) by failing to test and inspect the pressure limiting devices in the required time period.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.412(a), which states:

§ 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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.412(a) by failing to conduct an

effective inspection of the surface conditions on or adjacent to each pipeline right-of-way (ROW). Specifically, the Notice alleged that three locations on Enbridge's pipeline ROWs had excess growth and tree canopy such that the surface of the ROW was not visible to aerial patrols conducted by Enbridge.

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. § 195.412(a) by failing to conduct an effective inspection of the surface conditions on or adjacent to each pipeline ROW.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a) . . .

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, Alternative Internal Inspection Interval) (incorporated by reference, see §195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to adequately inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std. 653 (except section 6.4.3, Alternative Internal Inspection Interval). Specifically, the Notice alleged that Enbridge identified issues with three breakout tanks that should have been addressed in the company's monthly inspections but were not.

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. § 195.432(b) by failing to adequately inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std. 653.

Item 8: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e), which states:

§ 195.573 What must I do to monitor external corrosion control?

(a) . . .

(e) *Corrective action.* You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h)

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(e) by failing to correct identified deficiencies in corrosion control within a reasonable time as required by §

195.401(b).² Specifically, the Notice alleged that Enbridge identified deficiencies at five locations and failed to bring structure potentials up to the level of “target potentials” by the following inspection.

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. § 195.573(e) by failing to correct identified deficiencies in corrosion control within a reasonable time as required by § 195.401(b).

Item 9: The Notice alleged that Respondent violated 49 C.F.R. § 195.581, which states:

§ 195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, you need not protect against atmospheric corrosion any pipeline for which you demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will-

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

The Notice alleged that Respondent violated 49 C.F.R. § 195.581 by failing to provide suitable coating on its pipeline to protect against atmospheric corrosion. Specifically, the Notice alleged that Enbridge did not maintain a suitable coating at eight exposed pipe locations.

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. § 195.581 by failing to provide suitable coating at eight exposed pipe locations.

Item 10: The Notice alleged that Respondent violated 49 C.F.R. § 195.583(c), which states:

§ 195.583 What must I do to monitor atmospheric corrosion control?

(a) . . .

(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by §195.581.³

The Notice alleged that Respondent violated 49 C.F.R. § 195.583(c) by failing to protect its pipeline against atmospheric corrosion as required by 49 C.F.R. § 195.581. Specifically, the

² Section 195.401(b) requires operators to make non-integrity management repairs “within a reasonable time” whenever an operator discovers a condition that could adversely affect the safe operation of its pipeline.

³ Section 195.581 requires operators to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of that section.

Notice alleged that Enbridge did not maintain coating at soil-air interfaces at seven locations.

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. § 195.583(c) by failing to protect its pipeline against atmospheric corrosion as required by 49 C.F.R. § 195.581.

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.⁴ 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 \$122,100 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$25,200 for Respondent's violation of 49 C.F.R. § 195.116(e), for failing to maintain a means for clearly indicating the position of the valves. As explained in detail above, Enbridge contested the violation, and based on the additional information provided, one of the nine instances has been withdrawn. Enbridge did not present any additional argument warranting further reduction of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a reduced civil penalty of \$24,800 for violation of 49 C.F.R. § 195.116(e).

Item 2: The Notice proposed a civil penalty of \$18,900 for Respondent's alleged violation of 49 C.F.R. § 195.402(a). Since this alleged violation has been withdrawn, the proposed penalty is not assessed.

Item 4: The Notice proposed a civil penalty of \$20,300 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to inspect and test each overpressure safety device, at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity. Enbridge neither contested the allegation nor presented any evidence or argument justifying a reduction or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,300 for violation of 49 C.F.R. § 195.428(a).

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

Item 5: The Notice proposed a civil penalty of \$37,000 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to test and inspect, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry HVLs, at intervals not to exceed 7 ½ months, but at least twice each calendar year, each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it had adequate capacity from the standpoint of capacity for the service in which it was used. Having reviewed the record, I find the civil penalty proposed in the Notice was higher than the penalty calculated by the civil penalty worksheet. The correct penalty as calculated by the worksheet for Respondent's violation of 49 C.F.R. § 195.428(a) was \$33,500. Enbridge neither contested the allegation nor presented any evidence or argument justifying a reduction in or 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. § 195.428(a).

Item 8: The Notice proposed a civil penalty of \$20,700 for Respondent's violation of 49 C.F.R. § 195.573(e), for failing to correct identified deficiencies in corrosion control within a reasonable time as required by § 195.401(b). Having reviewed the record, I find the civil penalty proposed in the Notice was higher than the penalty calculated by the civil penalty worksheet. The correct penalty as calculated by the worksheet for Respondent's violation of 49 C.F.R. § 195.573(e) was \$20,300. Enbridge neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,300 for violation of 49 C.F.R. § 195.573(e).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a reduced civil penalty of \$98,900.

Payment of the civil penalty must be made within 20 days of service. 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 \$98,900 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 1, 3, 6, 7, 9, and 10 in the Notice for violations of 49 C.F.R. §§ 195.116(e), 195.402(e)(9), 195.412(a), 195.432(b), 195.581, and 195.583(c), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the

transportation of gas or hazardous liquid who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

With regard to the violation of § 195.412(a) (**Item 3**), the Director has indicated that Enbridge has performed a post-accident review of the pipeline accident that occurred on February 29, 2016 on the Lakehead system that was reported to PHMSA on DOT Form 7000-1, and provided PHMSA documentation of the review.

With regard to the violation of § 195.412(a) (**Item 6**), the Director has indicated that Enbridge has cleared the ROWs to make them visible from aerial patrol. All ROWs have been cleared and Enbridge provided photographs of the ROWs.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice for Items 3 and 6 are not included in this Order.

With regard to the violation of § 195.581 (**Item 9**), the Notice proposed that Enbridge remediate the coating at the eight locations identified and document the action taken within 180 days of receipt of the Final Order. Enbridge requested an extension to 18 months to complete remediation of the remaining locations. Enbridge notes that certain of the locations are scheduled to be replaced as part of line replacement efforts. Enbridge also notes that in-line inspection data showed that at no time did the violations present a threat to the integrity of the pipeline. In consideration of this evidence, I find that additional time is warranted to remediate the coating at the eight locations and document the action taken.

With regard to the violation of § 195.583(c) (**Item 10**), the Notice proposed that Enbridge must remediate the coating at the seven locations identified within 180 days of the Final Order. Enbridge requested an extension to 18 months to complete remediation of the remaining locations. Enbridge notes that certain of the locations are scheduled to be replaced as part of line replacement efforts. Enbridge also notes that in-line inspection data showed that at no time did the violations present a threat to the integrity of the pipeline. In consideration of this evidence, I find that additional time is warranted to remediate the coating at the seven locations and document the action taken.

Therefore, the Compliance Order is 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 § 195.116 (**Item 1**), Respondent must provide a means of clearly indicating the position of the eight valves and document this effort. Documentation of its completion of this item must be provided to the Director with 180 days of receipt of the Final Order.
2. With respect to the violation of § 195.432(a) (**Item 7**), Respondent must train its

employees on procedures for properly conducting monthly breakout tank inspections. Documentation of this training must be provided to the Director within 180 days of receipt of the Final Order.

3. With respect to the violation of § 195.581 (**Item 9**), Respondent must remediate the coating at the eight locations identified and submit documentation to the Director showing the action taken within eighteen (18) months of receipt of the Final Order.

4. With respect to the violation of § 195.583(c) (**Item 10**), Respondent must remediate the coating at the seven locations identified and submit documentation to the Director showing the action taken within eighteen (18) months 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 administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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.

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, no later than 20 days after receipt of service of this 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.

ALAN KRAMER
MAYBERRY

Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2021.08.05
16:34:27 -04'00'

August 9, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued