NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER

VIA ELECTRONIC MAIL TO: michael.koby@enbridge.com **and** david.stafford@enbridge.com

February 10, 2021

Mr. Michael Koby
Vice President US Operations
Enbridge Energy Inc.
5400 Westheimer Ct.
Houston, Texas 77056

CPF 3-2021-5002

Dear Mr. Koby:

On March 5 to 9, April 2 to 6, May 7 to 11, May 21 to 25, June 11 to 15 and June 25 to 29, 2018, representatives 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 the records and facilities of several of your subsidiaries, namely, Enbridge Storage (Cushing), LLC; Enbridge Storage (Patoka), LLC; CCPS Transportation, LLC; and Illinois Extension Pipeline Company in Oklahoma, Kansas, Missouri and Illinois. These facilities include two tank farms with a total of 89 tanks and approximately 1,338 miles of crude oil pipelines.

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. § 195.52 Immediate notice of certain accidents.

(a) *Notice requirements.* At the earliest practicable moment following discovery, of a release of the hazardous liquid or carbon dioxide transported resulting in an

event described in §195.50, but no later than one hour after confirmed discovery, the operator of the system must give notice, in accordance with paragraph (b) of this section of any failure that: . . .

The PHMSA inspection revealed that Enbridge failed to give notice at the earliest practicable moment, but no later than one hour after confirmed discovery, to the National Response Center following a release of a hazardous liquid resulting in an event described in 49 C.F.R. § 195.50. Specifically, on May 2, 2017, a sump-pump overfill situation occurred, resulting in a release of approximately 10 barrels of crude oil and the shutdown of Enbridge's Line 63 (Pakota Station) in Illinois. According to Accident Report 20170177-22368, Enbridge identified the accident at 10:22 a.m., and confirmed discovery at 10:24 a.m. when resources first arrived onsite. However, Enbridge did not give notice to the National Response Center of the accident until 12:34 p.m., which exceeded the one-hour notification requirement under § 195.52(a) by 1 hour and 10 minutes.

2. § 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a) A means must be provided for containing hazardous liquids in the event of spillage or failure of an above-ground breakout tank.
(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:

(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA-30 (incorporated by reference, see § 195.3);

(i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2; . . .

Enbridge failed to provide a means for containing hazardous liquids in the event of spillage or failure of above-ground breakout tanks built to American Petroleum Institute (API) Specification 12F, API Standard 620 and others (such as API Standard 650 (or its predecessor Standard 12C), by installing impoundments around certain breakout tanks built after October 2, 2000, at the company's Cushing Tank Farm facility. Specifically, Enbridge failed to install impoundments in accordance with section 22.11.2 of NFPA-30, a standard promulgated by the National Fire Protection Association and incorporated by reference in 49 C.F.R. § 195.3.

During the field inspection of the Cushing Tank Farm facility, PHMSA observed that several groups of tanks did not have intermediate berms, as required by section 22.11.2 of NFPA-30. That section provides, in relevant part:

> NFPA 30 – Flammable and Combustible Liquids Code
> 22.11.2 ….
> 22.11.2.6.3.5 Whenever two or more tanks storing Class I liquids, any one of which is over 150 ft (45 m) in diameter, are located in a common diked area, intermediate dikes shall be provided between adjacent tanks to hold at least 10 percent of the capacity of the tank so enclosed, not including the volume displaced by the tank.

PHMSA identified several containment areas at the Cushing Tank Farm facility storing Class I liquids where there were two or more tanks, each being more than 150 feet in diameter, that lacked intermediate dikes between adjacent tanks and that could hold at least 10 percent of the tank so enclosed, not including the volume displaced by the tank. In an email to PHMSA dated March 21, 2019, Enbridge acknowledged that it had conducted a survey of the Cushing Tank Farm facility and had identified the following tanks as being non-compliant with NFPA-30 section 22.11.2. A total of 23 tanks in five containment areas failed to comply with NFPA-30 section 22.11.2, as follows:

Containment Area / Tanks	**Year Built**
1. 1036, 1037, 1038	2012
2. 2238, 2239, 2240, 2241, 2242,	2008
3. 2235, 2236, 2237, 2243, 2244	2006 (Tanks 2235-37) & 2011 (Tanks 2243-44)
4. 2229, 2230, 2231, 2232, 2233, 2234	2007
5. 3361, 3362, 3363, 3364	2006

3. §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. . . .

Enbridge failed to follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, the company failed to follow its written procedure "*09-03-02 Removing Water/Snow from Tank Roofs*." Step 5 of the procedure for Removing Water requires operator personnel to "[m]onitor water from bottom drain valve for visible product for at least 10 min. checking drain valve every 30

min until draining is complete." However, this procedure does not reflect the actual practice followed in the field.

During the PHMSA field inspection, Enbridge representatives stated that the Cushing Tank Farm facility keeps all tank roof drains open at all times, including at night and on weekends. This practice is inconsistent with Enbridge's procedure for Removing Water, specifically the monitoring required under Step 5. Additionally, the practice of leaving the tank roof drains open at all times, including at night, conflicts with a specific warning in the procedure that states: "Do not leave tank roof drains and firewall drains open … at night."

On May 31, 2018, in response to OPS' inquiries about Enbridge's practice of draining tank roofs at the Cushing Tank Farm facility, Cushing staff stated that the practice of leaving the tank roof drains open had been in place prior to Enbridge acquiring the facility. Cushing staff also stated that the procedure would only apply to instances where the roof drain valve was closed. However, there is no indication in the procedure that it was limited to instances where the roof drain valve was closed. Therefore, Enbridge's statements and practices demonstrate that Enbridge failed to follow its written procedure *09-03-02*.

4. §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 …

Enbridge failed to follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, the company failed to follow its procedure "*03-07-03 Pressure Relief / Safety Valves,*" when testing pressure safety valves (PSVs). Specifically, procedure *03-07-03* sets forth a 14-step process for inspecting and testing PSVs.

During PHMSA's field inspection at the CCPS Spearhead Pipeline in Illinois from June 25 to 29, 2018, the following series of events occurred. Enbridge's technicians failed to follow the company's 14-step process laid out in procedure *03-07-03* during the following instances:

- Step 9 was completed before step 1 – equipment was attached to the PSV before calling the control room as required in Step 1.
- During Step 10, the compressed nitrogen tank valve was supposed to be slowly opened until the PSV activated. However,
    - The nitrogen tank valve was opened quickly so that the PSV tripped several times a second before the nitrogen tank valve closed after several seconds.

    - The entire nitrogen tank was emptied so much that another tank had to be retrieved to conduct the test.
    - When Enbridge personnel observing the test determined that the technician's performance was unsatisfactory, Enbridge suspended the technician as of 6/29/2018.
    - The technician requalified on 9/12/2018.
- Technicians in Illinois failed to complete Step 11 by updating the field tags with the date of the test. The Area supervisor and five technicians that were interviewed stated that it was the practice in this location not to use field tags, despite the procedure requirements.

PHMSA's inspectors witnessed Enbridge's technicians not properly following the 14-step procedure for testing PSVs, which demonstrates a failure to comply with § 195.402(a).

5. §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 …

Enbridge failed to follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, the company failed to follow its written procedure "*03-07-03 Pressure Relief / Safety Valves*." Step 10 of the procedure for inspecting and testing pressure relief/safety valves sets forth measures for checking pressure relief set points for the valves, which includes recording the current pressure-relief setting as "Task" on the work order and then creating a follow-up work order to document the adjustments being made. However, Enbridge did not complete these specific measures under Step 10 of the procedure.

During the field inspection, PHMSA discovered that technicians were recording the setting "found / left" data in the field on a paper form, but were not updating the work order. Enbridge provided copies of the paper form for three of the five pressure-relief valves listed below. Technicians used this paper form in the field but Enbridge was unable to provide follow-up work orders, as required by the procedure.

The following records lacked "found / left" pressure readings:

1. CG-159-PSV-3 – Missing the "as found" relief pressure reading from the 2016 detailed work order.
2. CG-155-PSV-1 – Missing the "as found" relief pressure reading from the 2017 detailed work order.
3. NI-55-PSV-1 – Missing the "as found" relief pressure from the 2016 detailed work order.

4. QT-59-PSV-1 – Missing the "as found" relief pressure from the 2017 detailed work order.

By failing to document the current "as found" relief pressures in the follow-up work orders, Enbridge failed to follow its written procedure, as required by § 195.402(a).

6. §195.420 Valve maintenance.

(a) . . . .
(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

Enbridge failed to inspect each mainline valve at least twice each calendar year, at intervals not exceeding 7½ months. PHMSA's review of Enbridge's valve maintenance records found that the following seven valves had not been inspected at least twice each calendar year:

1. TP-63-BV-1 – Missing first inspection of 2016.
2. TP-63-CSV-12 – Missing first inspection of 2016.
3. DT-63-SSV-1 – Missing first inspection of 2016.
4. DT-63-SSV-2 – Missing first inspection of 2016.
5. FB0168.17-63-V-1 – Missing first inspection of 2016.
6. FB0168.18-63-V-1 – Missing first inspection of 2016.
7. FH0000.03-59-V-1 – Missing first inspection of 2017.

Therefore, Enbridge failed to inspect seven mainline valves, at intervals not exceeding 7½ months, but least twice each calendar, as required by § 195.420(b).

7. §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.

Enbridge failed to inspect each non-highly volatile liquid (HVL) overpressure safety device at least once each calendar year at intervals not exceeding 15 months. The

following 12 overpressure safety devices were not inspected annually for a total of 12 inspections that were not conducted:

1. CG-55-PCV-1 – Missing 2016 and 2017 inspections.
2. TP-203-PSV-4 – Missing 2016 inspection.
3. TP-203-PSV-3 – Missing 2016 inspection.
4. TP-203-PSV-2 – Missing 2016 inspection.
5. TP-203-PSV-1 – Missing 2016 inspection.
6. TP-202-PSV-1 – Missing 2016 inspection.
7. TP-202-PCV-1 – Missing 2016 inspection.
8. TP-201-PSV-1 – Missing 2016 inspection.
9. TP-101-PSV-15C – Missing 2016 inspection.
10. TP-101-PSV-121 – Missing 2016 inspection.
11. FH0124.93-55-PT-2 – Missing inspection in calendar year 2016 (inspection on 11/13/2015 & 1/24/2017).

Therefore, Enbridge failed to conduct 12 inspections of overpressure safety devices on its system in 2016 and 2017, as required by § 195.428(a).

8. §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.

Enbridge failed to determine, over a period of three years, whether 53 pressure-control devices on its non-HVL pipeline were adequate from the standpoint of capacity and reliability of operation for the service in which they were used, at intervals not exceeding 15 months, but at least once each calendar year.[1]

PHMSA's review of Enbridge's pressure-control records noted that Enbridge had not determined that the capacity was adequate for 53 overpressure safety devices as required by §195.428. Specifically, Enbridge had missed a total of 159 inspections and tests of its overpressure safety devices to determine if they were adequate from the standpoint of capacity, nor was Enbridge able to produce any records demonstrating it

[1] These 53 devices were different from the ones cited above it Item 7.

had completed such determinations. The 53 overpressure safety devices and 159 missing capacity inspections and tests are as follows:

Pipeline facility	In-service Date	Number of overpressure-protection valves to be inspected per year	Number of missed capacity reviews	Years of Missed Inspections
Spearhead Pipeline, Line 55	>5 years	15	45	2016, 2017, 2018
Spearhead Pipeline, Line 59	Dec. 2014	9	27	2016, 2017, 2018
Cushing Terminal	>5 years	16	48	2016, 2017, 2018
Patoka Terminal	>5 years	11	33	2016, 2017, 2018
SAX	Nov. 2015	2	6	2016, 2017, 2018
Total		53	159	

Therefore, Enbridge failed to determine whether pressure-control devices on its non-HVL pipeline were adequate from the standpoint of capacity and reliability of operation for the service in which they were used, at intervals not exceeding 15 months, as required by §195.428(a), as well as the requirements of Enbridge's own procedure "*Pressure Control Valve Capacity and Reliability Assessment."*[2]

9. §195.430 Firefighting equipment.

Each operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be—

(a) In proper operating condition at all times;

Enbridge failed to perform an annual inspection of firefighting equipment at the Patoka facility in 2016. Enbridge staff stated that the annual fire extinguisher inspection was not completed to their knowledge and the employees that were there at that time are no longer with Enbridge. Firefighting equipment inspections are required by NFPA-30, incorporated by reference into Part 195 at § 195.3, and Enbridge's procedure "*04-03-02 Fire Extinguishers – Inspection*." Enbridge was not able to

[2] The purpose of the "*Pressure Control Valve Capacity and Reliability Assessment"* procedure is to "outline the process to the process to be followed for the assessment of capacity and reliability on Pressure Control Valves (PCV) as per … 49 CFR 195.428."

provide documentation demonstrating that the firefighting equipment had been inspected in 2016 to ensure it was in proper operating condition at all times.

10. §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; . . . .

Enbridge failed to follow its own written qualification program for ensuring through evaluation that individuals performing covered tasks were qualified. Enbridge's Regional Management reported to PHMSA that two individuals had performed covered tasks when they were not qualified per the company's written operator qualification program. Records show that in each instance the covered task was performed by unqualified individuals only one time.

1. Covered task 51, "Valves and Actuators," was performed by an unqualified individual on 4/25/2017; the qualification had expired on 3/19/2017 and the re-qualification did not occur until 6/15/2017.
2. Two covered tasks were performed by an individual before being qualified. First, Task 91, "Pressure Relief Valve Test," was performed on 9/9/2016 before the qualification date of 7/7/2017. Second, Task 51, "Valves and Actuators," was performed on 10/21/2016 before the qualification date of 2/23/2017.

11. §195.567 Which pipelines must have test leads and what must I do to install and maintain the leads?

(a) . . . .
(c) *Maintenance.* You must maintain the test lead wires in a condition that enables you to obtain electrical measurements to determine whether cathodic protection complies with §195.571.

Enbridge failed to maintain test lead wires in a condition that would enable the operator to obtain electrical measurements to determine whether cathodic protection on the pipeline complied with § 195.571. A review of Enbridge's corrosion-control records showed that the following seven test lead wires were not adequately maintained to allow testing at the required inspection cycles:

1. Line 59, MP 30.1 - No readings due to bad test lead in 2016 and 2017.

2. Line 59, MP 41.82 - No readings due to bad test lead in 2016 and 2017.
3. Line 59, MP 256.25 - No readings due to bad test lead in 2016 and 2017.
4. Line 59, MP 298.4 - No readings due to bad test lead in 2016 and 2017.
5. Line 59, MP 364.17 - No readings due to bad test lead in 2016 and 2017.
6. Line 59, MP 529.31 - No readings due to bad test lead in 2016 and 2017.
7. Line 55, MP 487.9089 - No readings due to bad test lead in 2016 and 2017.

12. §195.573 What must I do to monitor external corrosion control?

(a) . . . .
(c) *Rectifiers and other devices.* You must electrically check for proper performance each device in the first column at the frequency stated in the second column.

Device	Check frequency
Rectifier	**At least six times each calendar year, but with intervals not exceeding 2½ months.**
Reverse current switch	
Diode	
Interference bond whose failure would jeopardize structural protection	
Other interference bond	**At least once each calendar year, but with intervals not exceeding 15 months.**

Enbridge failed to electrically check for proper performance of rectifiers at least six times each calendar year, at intervals not to exceed 2½ months. As identified during the PHMSA inspection of Enbridge's corrosion- control records, 11 checks were not completed on the following 4 rectifiers:

1. Line 63, MP 71.62 - Missing 2 readings between 12/15/2016 to 5/9/2017.
2. Patoka Terminal, MP 120 - Missing 3 readings between 12/30/2016 to 7/13/2017.
3. Patoka Terminal, MP 5347 - Missing 2 readings between 1/1/2017 to 6/28/2017.
4. Patoka Terminal, MP 5354 - Missing 4 readings between 6/21/2016 to 4/19/2017.

Enbridge also failed to electrically check for the proper performance of critical interference bonds at least six times each calendar year, at intervals not to exceed 2½ months. As identified during the inspection of Enbridge's corrosion-control records, 13 checks were not completed on the following three critical bonds:

1. Line 55, MP 423.5056 - Missing the first 3 readings in 2017, and the last reading in 2017 (total of 4).

2. Line 55, MP 423.5056A - Missing 5 readings in 2017 (only reading was on 6/26/2017) (total of 5).
3. Line 55, MP 423.5056B - Missing 4 readings in 2017 (only readings were on 6/26/2017 and 12/4/2017) (total of 4).

13. §195.573 What must I do to monitor external corrosion control?

(a) *Protected pipelines.* You must do the following to determine whether cathodic protection required by this subpart complies with §195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months….

(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).

and

§195.401(b) General Requirements.

(a) . . .
(b) An operator must make repairs on its pipeline system according to the following requirements:

(1) *Non Integrity management repairs.* Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.

Enbridge failed to correct deficiencies in corrosion control on certain non-HCA pipeline segments, as required by § 195.573(e). Under that section, operators must correct any identified deficiencies in corrosion control as provided by § 195.401(b)(1), which states that whenever an operator discovers a condition that could adversely affect the safe operation of a non-HCA pipeline, it must correct the condition within a reasonable time.

The following seven test point locations had identified deficiencies of low cathodic protection potentials for multiple surveys in a row.[3] However, there is no evidence

[3] Enbridge utilized the -0.850 V "instant off" criteria.

that Enbridge took measures to correct the deficiencies within a reasonable amount of time or prior to conducting the next inspection required under § 195.573(a).

1. Line 55, MP 266.6379 - Instant off reading on 5/14/2016 was -0.726 mV and on 6/20/2017 it was -0.597 mV. No additional readings taken in 2017.
2. Line 55, MP 507.4760 - Instant off reading on 4/16/2016 was -0.750 mV and on 6/8/2017 it was -0.795 mV. No additional readings taken in 2017
3. Line 59, MP 163.090 - Instant off reading on 5/15/2016 was -0.840 mV and on 6/21/2017 it was -0.717 mV. No additional readings taken in 2017.
4. Line 59, MP 164.0010 - Instant off reading on 7/9/2015 was -0.825 mV, on 5/16/2016 was -0.694 mV and on 6/21/2017 it was -0.565 mV. No additional readings taken in 2017.
5. Line 59, MP 164.0040 - Instant off reading on 7/9/2015 was -0.815 mV, on 5/16/2016 was -0.646 mV and on 6/21/2017 it was -0.560 mV. No additional readings taken in 2017.
6. Line 59, MP 435.1000 - Instant off reading on 4/15/2016 was -0.680 mV and on 6/8/2017 it was -0.708 mV. No additional readings taken in 2017.
7. Line 59, MP 435.1300 - Instant off reading on 5/15/2016 was -0.587 mV and on 6/8/2017 it was -0.634 mV. No additional readings taken in 2017.

Therefore, Enbridge failed to correct the seven identified deficiencies of low cathodic protection potentials within a reasonable time, as required by § 195.573(e).

14. §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.

Enbridge failed to provide protection against atmospheric corrosion by cleaning and coating each pipeline or portion of pipeline that is exposed to the atmosphere. During the field inspection of Enbridge's Concordia Station, PHMSA observed that the coating had dis-bonded and/or flaked at the pipe-to-soil transitions on both unit sump drain lines. These observations, which were documented with photographic evidence, show that Enbridge failed to provide protection against atmospheric corrosion on its pipeline by cleaning and coating each portion of pipeline that is exposed to the atmosphere.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed $218,647 per violation per day the violation persists, up to a maximum of $2,186,465 for a related series of violations. For violations occurring on or after November 27, 2018 and

before July 31, 2019, the maximum penalty may not exceed $213,268 per violation per day, with a maximum penalty not to exceed $2,132,679. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed $200,000 per violation per day, with a maximum penalty not to exceed $2,000,000 for a related series of violations. PHMSA has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of $354,100 as follows:

Item number	PENALTY
2	$ 29,700
3	$ 19,000
4	$ 19,600
5	$ 16,500
6	$ 21,000
7	$ 22,800
8	$ 36,200
12	$170,000
14	$ 19,300

Warning Items

With respect to items 1, 9, 10, 11 and 13 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 now. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Enbridge Storage (Cushing). 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. 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 the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2021-5002** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

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

CC: Dave Stafford, Manager, US Pipeline Compliance, 119 N. 25th Street East,
Superior, WI 54880 david.stafford@enbridge.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Enbridge Inc. (Enbridge), in regards to its subsidiary Enbridge Storage (Cushing) LLC 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 Enbridge's failure to follow NFPA-30 section 22.11.2 when designing tank impoundments in the Cushing Tank Farm facility and not installing intermediate berms, Enbridge must install intermediate berms in accordance with NFPA-30 for the containment areas identified in Item Number 2 of the Notice.

2. Enbridge must correct these inadequacies within six months of issuance of a Final Order and supply evidence of drawings and photos to Gregory Ochs, Director, Central Region, OPS, Pipeline and Hazardous Materials Safety Administration.

3. It is requested (not mandated) that Enbridge maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory Ochs, Director, Central Region, OPS, 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.