

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

VIA ELECTRONIC MAIL TO: michael.koby@enbridge.com, david.stafford@enbridge.com,
and jim.ramness@enbridge.com

January 7, 2022

Michael Koby
Vice President, US Operations
Enbridge Energy, Limited Partnership
5400 Westheimer Court
Houston, TX 77056

CPF 3-2022-016-NOPV

Dear Mr. Koby:

From July 19 to September 17, 2020, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected Enbridge Energy, Limited Partnership (Enbridge) Control Room Management procedures and records in Edmonton, Alberta, Canada.

This Notice is in response to PHMSA's Control Room Management (CRM) Initiative, which is a national level program that includes inspectors from every region. As a result, you may have received this Notice from a different Regional Director than typical because the CRM Initiative inspections are currently separate from the standard inspection program. Notices and correspondence from other types of inspections will remain unchanged.

As a result of the inspection, it is alleged that Enbridge has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (C.F.R.). The items inspected and the probable violations are:

1. §195.446 (c) Provide adequate information.

(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 pipelines safety are made to field equipment or SCADA displays:

Enbridge's point-to-point documentation failed to demonstrate compliance. A review of Point to Point (P2P) documentation did not support verification of correct alarm priority, alarm messaging, and that set points triggered appropriately and were logged to the event log in SCADA. During the inspection, operator personnel, in response to a question asking if these items were checked, responded, "Yes, but probably not documented." In another instance, operator personnel stated it was "assumed" the items were checked as the records did not indicate such.

2. §195.446 (c) Provide adequate information.

(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.

Enbridge failed to test and verify their 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 for the years 2017, 2018, and 2019.

Enbridge identified its internal communication plan as the *Quarterly Qualified Individual Notification Exercise (QINE)*. Enbridge described this in their Control Room Management (CRM) Plan, Version 11.0, as a "spontaneous exercise verifying that employees qualified in the manual operation of pipelines can be contacted in a timely manner." Enbridge performed quarterly calls to these individuals and asked each person three questions to verify their role and contact information. However, § 195.446(c)(3) requires an internal communication plan to "provide adequate means for manual operation of the pipeline safely." For major SCADA outages, Enbridge indicated their practice was to shut down the pipeline, which would need to be a manual operation. While Enbridge had procedures to facilitate shutdown, in practice they did not facilitate tests or drills to exercise the procedures for the manual shut down of the pipeline.

Enbridge's "Communications Failure – Pipeline" and "Communications Failure – Terminal" procedures were more specific in the steps controllers and field personnel must follow to initiate either manual shut down of equipment or continue manual operation of pipeline sections, and for reporting requirements of local operations to the control room. These processes were also not tested to verify their internal communication plan to provide adequate means for manual operation of the pipeline safely.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, you are subject to a civil penalty not to 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 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 violation occurring on or after November 2, 2015, and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. 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.

Warning Item

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 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 Energy, Limited Partnership. 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 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 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 3-2022-016-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

cc: David Stafford, Manager Compliance david.stafford@enbridge.com

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

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 2 of the Notice pertaining to testing and verifying manual operating plans for the safe operation of the pipeline, upon amendment of procedures related to §195.446(c)(3) as stated in Notice of Amendment in **CPF 3-2022-015 NOA**, Enbridge must test those procedures/plans for the controlled shut down of the pipeline and procedures/plans as set forth in the “Communications Failure – Pipeline” and “Communications Failure – Terminal” documents, and verify that they are effective and that personnel are knowledgeable in carrying out their roles and responsibilities. These tests can be either live or simulated. Upon completion of the test, Enbridge must conduct and document an effectiveness review for each process. Any findings from the review must be addressed in an appropriate manner which could include training or procedure amendment. This must be completed within **90** days of receipt of the Final Order. Please provide documentation of completion of this item to Director, Central Region within this timeframe.
- B. It is requested (not mandated) that Enbridge Energy, Limited Partnership maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, 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.