

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

VIA ELECTRONIC MAIL TO: cythia.hansen@enbridge.com; nathan.atanu@enbridge.com

December 22, 2022

Ms. Cynthia Hansen
Executive Vice President and President
Gas Transmission and Midstream
Enbridge Inc.
915 North Eldridge Parkway, Ste 1100
Houston, Texas 77079

CPF 3-2022-061-NOPV

Dear Ms. Hansen:

From May 24 through December 8, 2021, 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 Algonquin Gas Transmission, LLC's ("Enbridge" or "Operator") natural gas pipeline facilities in New Jersey, New York, Connecticut, Rhode Island, and Massachusetts.

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

1. § 191.29 National Pipeline Mapping System

(a)

(b) The information required in paragraph (a) of this section must be submitted each year, on or before March 15, representing assets as of December 31 of the previous year. If no changes have occurred since the previous year's submission, the operator must comply with the guidance provided in the NPMS Operator Standards manual available at www.npms.phmsa.dot.gov or contact the PHMSA Geographic Information Systems Manager at (202) 366-4595.

Enbridge failed to submit the required information for the Medway Station pipeline lateral to NPMS within the prescribed time-frame. The pipeline lateral and station were constructed in calendar year 2017 to supply Excelon's West Medway power plant. Enbridge's GIS department submitted the new pipeline information to NPMS on 8/31/2021, approximately 4 years after installation.

2. **§ 192.605 Procedural manual for operations, maintenance, and emergencies.**
 - (a) **General.** Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Enbridge failed to periodically review and update its Hubline Post Construction Operations and Maintenance Plan (Hubline O&M) at intervals not exceeding 15 months, but at least once each calendar year. Enbridge confirmed that they did not have any records associated with a review of the Hubline O&M since it went into effect in November of 2003.¹ Enbridge provided no evidence to substantiate compliance with the requirement to review or update its Hubline O&M.

3. **§ 192.605 Procedural manual for operations, maintenance, and emergencies.**
 - (a) **General.** Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Enbridge failed to follow its Hubline O&M plan. Specifically, Enbridge failed to follow its procedure titled "*Spectra Energy Transmission Procedure 1-6050, Pipeline River and Waterway Crossing Surveys*" by not performing the required inspections of its subsea pipeline located in the Boston Harbor. Section 6.1 of the procedure states that "the Manager of Technical Operations – Region or designee shall conduct an underwater inspection of all pipelines located in offshore Massachusetts waters in accordance with the Hubline Post Construction Operations & Maintenance Plan".

The Hubline O&M plan identifies specific structures to be inspected and the recommended reinspection time intervals, including:

- Depth of cover survey for the 8 Anchorage Areas listed in Table 1 (Underwater Survey Locations) Section IV.B of the Plan. Depending on initial survey findings, subsequent subsea surveys would be required at intervals of every 5 or 10 years thereafter.

¹ 49 C.F.R. § 192.603(b) requires that operators "keep records necessary to administer the procedures established under § 192.605.

- Six separate Rock/Mat Backfill structure locations also cited in Table 1 of Section IV.B of the Hubline O&M Plan. The Plan requires a subsea inspection be performed every 5 years for those 6 structures.

Enbridge failed to demonstrate that it performed inspections and/or reinspection of the locations identified above, as required by its Hubline O&M plan.²

4. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Enbridge failed to comply with its own Operating Procedure SOP 1-6010 (rev. 11/15/2018), which states "for pipelines transporting odorized gas in Class 3 and 4 locations, leak surveys are completed via aerial patrol, except for areas exceeding 100 feet of non-dynamic cover such as significant paved areas or other areas where aerial patrol is ineffective. For these areas where aerial patrols would be ineffective in identifying a leak, leak surveys will be completed using a company approved alternative survey method(s), such as ground patrols (only for areas where ground vegetation surveys would effectively identify leaks), leak detection equipment or laser technology, to detect the airborne presence of natural gas." Specifically, the parking lot at the intersection of Sebeth Drive and Berlin Road., in Cromwell, Connecticut was not leak-surveyed with leak detection equipment in calendar year 2018, 2019 or 2020, despite it having met the requirements of this procedure for areas exceeding 100 feet of paved cover.

5. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Enbridge failed to provide inspection records for certain valves for calendar years 2018, 2019, and 2020. Specifically, records of inspection for calendar years 2018-2020 were noted to be missing for the following valves:

1. Valve 10146223 / 13BR-1PK2 / 402001929(2019), 402318053(2020) / Missing 2018 record - As part of SAP Data Validation effort the valve was added into SAP 1/9/2019;
2. Valve 10155040 / 14A-X3DT / 402256839(2020) / Missing 2018 and 2019

² *Id.*

- records - As part of SAP Validation effort the valve was added into SAP 10/15/2019; and
3. Valve 10155041 / 14A-X3D / 402256840(2020) / Missing 2018 and 2019 records - As part of SAP Validation effort the valve was added into SAP 10/15/2019.

After further review, it was determined that the valves were non-emergency valves. However, Enbridge’s procedure SOP #5-5010 (2021-01-29) requires that all valves be inspected each calendar year.

6. § 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a)

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

Enbridge failed to provide records of inspection associated with certain OPP, relief, and regulator station inspections for calendar year 2020. Specifically, a record of inspection for calendar year 2020 was noted to be missing for the following pressure limiting equipment:

1. LSS – L-SYSTEM-SAM 00039-PR-1 Equipment: 10007791 Missing 2020 record
2. LSS – L-SYSTEM-SAM 00039-PR-2 Equipment: 10007790 Missing 2020 record
3. LSS – L-SYSTEM-SAM 00039-PR-3 Equipment: 0007789 Missing 2020 record
4. LSS – L-SYSTEM-SAM 00039-PR-4 Equipment: 10007807 Missing 2020 record

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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. 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$193,700 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$76,300
3	\$58,700
4	\$58,700

Warning Items

With respect to Items 1, 5, and 6, 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 3 and 4 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Enbridge, Inc.. Please refer to the *Proposed Compliance Order*, which is attached 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 3-2022-061-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: Nathan Atanau, Manager Operational Compliance (nathan.atanu@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, Inc. a Compliance Order incorporating the following remedial requirements to ensure the compliance of Enbridge, inc. with the pipeline safety regulations:

- A. In regard to Item 3 of the Notice pertaining to the subsea inspection of AGT's Hubline pipeline system, Enbridge must, within **180** days of the issuance of the Final Order, submit a written plan to the Director, PHMSA Central Region for review and approval, outlining the performance of a subsea inspection of the structures identified in the Hubline Post Construction Operations and Maintenance Plan. Quarterly updates will be submitted to the Director of Central Region until the written plan is successfully completed.
- B. In regard to Item 4 of the Notice pertaining to the failure to leak survey the parking lot area near the intersection of Sebeth Dr. and Berlin Rd., in Cromwell, CT., Enbridge must, within **90** days of receipt of the Final Order, perform a leak survey of the location using leak detection equipment or laser technology, to detect the airborne presence of natural gas in accordance with its Operating Procedures.
- C. It is requested 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, 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.