

April 11, 2024

VIA ELECTRONIC MAIL TO: colin.gruending@enbridge.com

Colin K. Gruending
Executive Vice President and President, Liquids Pipelines
Enbridge Inc.
200 Fifth Avenue Place
425 – 1st Street SW
Calgary, Alberta, Canada T2P 3L8

Re: CPF No. 3-2023-011-NOPV

Dear Mr. Gruending:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$18,600, and specifies actions that need to be taken by Enbridge Energy, Limited Partnership, a subsidiary of Enbridge Inc., 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 e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA

Mr. Kevin Ruffatto, Vice President, U.S. Operations, Enbridge Inc.,
kevin.ruffatto@enbridge.com

Mr. David Stafford, Manager, U.S. Pipeline Compliance, Enbridge Inc.,
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**

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In the Matter of)	
)	
Enbridge Energy, Limited Partnership, a subsidiary of Enbridge Inc.,)	CPF No. 3-2023-011-NOPV
)	
Respondent.)	
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FINAL ORDER

From March 14 through August 12, 2022, pursuant to 49 U.S.C. § 60117, a representative 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, Limited Partnership's (Enbridge or Respondent) Lakehead, Toledo, and New York pipelines and facilities in Illinois, Indiana, Michigan, Ohio, and New York. Enbridge operates over 5,000 miles of hazardous liquid pipelines and over 100 breakout tanks.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated September 12, 2023, 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 two violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$18,600 for the alleged violations, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included one warning item pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violation or face possible future enforcement action.

Enbridge responded to the Notice by letter dated October 12, 2023 (Response). The company did not contest the allegations of violation but requested additional time to complete the proposed compliance action. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: 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 follow its manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, the Notice alleged that Enbridge failed to follow its operation and maintenance procedures regarding pipeline valve labeling. The valve labels for Line 78 erroneously referenced Line 6 in the valve identification string.

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(a) by failing to follow its manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(c)(7), which states:

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

(a)

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1)

(7) Starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by § 195.406, consider the hazardous liquid or carbon dioxide in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(c)(7) by failing to have procedures to provide safety when starting up and shutting down any part of the pipeline system. Specifically, the Notice alleged that Respondent failed to have procedures to prevent an abnormal operation during the restart of Line 5 after the installation of two emergency flow restrictive devices at MP 1532 and MP 1621. Due to the absence of procedures, personnel in the field were not made aware of changes to the project, including the decision not to commission

the valve at MP 1621 and the decision to restart the pipeline. Due to this lack of awareness, the field crew began moving the valve to check the valve limits after the pipeline had been restarted, causing the overpressure events.

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(c)(7) by failing to have procedures to provide safety when starting up and shutting down any part of the pipeline system.

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.¹

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 \$18,600 for the violation cited above.

Item 2: The Notice proposed a civil penalty of \$18,600 for Respondent's violation of 49 C.F.R. § 195.402(c)(7), for failing to have procedures to provide safety when starting up and shutting down any part of the pipeline system. 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 \$18,600 for violation of 49 C.F.R. § 195.402(c)(7).

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. 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 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

¹ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

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 Item 1 in the Notice for a violation of 49 C.F.R. § 195.402(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

With regard to the violation of § 195.402(a) (Item 1), Respondent requested additional time, until December 31, 2024, to complete the proposed compliance action due to the extensive scope of the work involved. Respondent indicated it has a project underway that will address equipment tagging incongruencies between engineering drawings, assets in the field, SCADA, leak detection systems, and other software systems across seven facilities and 39 main block valves. In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended extending the compliance deadline as requested. Therefore, I find it appropriate to extend the compliance deadline.

For the above reasons, 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 § 195.402(a) (**Item 1**), Respondent must correct the valve and equipment labels to properly reflect Line No.78 by December 31, 2024.

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 the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223 for adjusted amounts), 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.

WARNING ITEM

With respect to Item 3, the Notice alleged a probable violation of Part 195, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 195.573(a)(1) (**Item 3**) — Respondent’s alleged failure to conduct tests to ensure cathodic protection meets the applicable criteria on certain purged and idled pipelines (Line 6B and inactive segments on Line 10) at least once each calendar year, but with intervals not exceeding 15 months for calendar years 2020 and 2021.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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. The written petition must be received no later than 20 days after receipt of the 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.

April 11, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued