Enbridge Response to Topic Paper A: Damage Prevention

CER Objectives for Improvement
The objectives of new requirements will be to help ensure that companies:

- *are clear about what a surveillance and monitoring program should contain and aim to accomplish with respect to depth of cover; and*
- *are able to make a clear connection between the Damage Prevention Regulations and the OPR around agricultural safety as agricultural activities do not require company consent (within an allowable threshold).*

Proposed Option
The CER is considering the following option to meet the objectives outlined above:

- *Adding a requirement to section 39 of the OPR that the company's surveillance/monitoring program must include depth of cover monitoring for:*
  - *the purposes of section 7 of the Canadian Energy Regulator Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies (DPR-O) (thus ensuring agricultural safety), and*
  - *monitoring the areas which may be impacted by hazards and potential hazards related to normal and abnormal weather conditions and land use.*

Enbridge Response:

Enbridge supports the stated objective in this paper that any new requirements that are introduced should provide greater clarity regarding "what a surveillance and monitoring program should contain and aim to accomplish with respect to depth of cover". Enbridge also supports the proposed option identified in this paper as a means for improving the connection between the OPR, DPR-O and overarching Damage Prevention Program to ensure that depth of cover is adequately managed. Enbridge offers the comments below in response to discussion questions A2, A3, A4 and A7.

***A2**. What are the benefits and implications (e.g., costs) that regulated companies anticipate from incorporating requirements for depth of cover monitoring into the OPR?*

Generally speaking, anticipated implications for pipeline operators associated with incorporating requirements for depth of cover monitoring into the OPR include the following:

- costs - costs of hiring contractors to conduct surveys on assets in agricultural areas.
- personnel - requiring staff to manage depth of surveys, analyze data, manage the program.
- data management - acquisition, analysis, and storage of depth of cover data.
- operational disruption - (1) potential disruptions to landowners and other stakeholders while accessing the pipeline route, (2) transportation and logistical costs for field surveys, especially in remote areas, and (3) challenges with scheduling depth of cover surveys (harvest, inclement weather, hunting season); and

- regulatory compliance - time and costs associated with documenting and reporting findings to regulatory bodies and completing regulatory audits.

***A3**. What are the benefits and implications (e.g., costs) that regulated companies anticipate from incorporating requirements for minimum depth of cover into the OPR?*

Incorporating requirements for maintenance of minimum depth of cover could have **major cost implications** for shallow/exposed site mitigation. Currently, each shallow/exposed site undergoes a risk assessment, and sites are mitigated based on the risk ranking. Factors considered include depth of cover, land use, topographical feature, stakeholder relations, etc.

In addition, a prescriptive requirement for minimum depth of cover would introduce cost and challenges associated with maintaining existing land profiles (e.g., adding fill which results in a hill/mound in the middle of a farmer's field).

***A4**. For regulated companies, would adding a depth of cover monitoring or maintenance/minimum earth cover requirement in the OPR align with current business practices, or substantially change corporate operations?*

A depth of cover monitoring requirement would largely align with Enbridge's current business practices. However, adding a maintenance/minimum earth cover requirement would substantially change current business practices. Currently, shallow and exposed sites are risk-ranked and mitigated by a variety of methods, including the following options:

- adding fill
- installing signage, barriers, and/or fencing
- installing armoring or protection slabs
- landowner agreement
- monitoring
- line lowering
- line relocation

Adding a maintenance/minimum earth cover requirement could exclude other methods that are effective at mitigating risk. Adding either or both requirements (depth of cover monitoring and maintenance of minimum earth cover) may generate regulatory pressure to complete surveys and remediations at a faster schedule than would otherwise be reasonably necessary based on a risk-informed approach, resulting in increased resource and cost allocations for this work.

***A7**. How should the CER be more explicit about requirements for depth of cover monitoring or maintenance? Explain why.*

Explicit requirements may not be necessary; in particular Enbridge does not support a maintenance/minimum earth cover requirement. In lieu of additional requirements, the CER could consider providing guidance and recommendations concerning the following:

- frequency of monitoring—how often should each segment of pipe be monitored
- spacing requirements—how far apart should depth of cover measurements be
- method of obtaining depth of cover—what methods of obtaining depth of cover measurements are suitable (e.g., electromagnetic surveys, etc.) and how often should probing be used
- use of risk-informed approach—guidance should contemplate the use of a risk-informed approach related to depth of cover monitoring and maintenance in agricultural areas and could include the identification of factors that should be considered by pipeline operators in the supporting analysis for such an approach

Enbridge Response to Topic Paper B: Deactivation and End of Lifecycle

CER Objectives for Improvement – Lifecycle Definitions

Help companies, Indigenous Peoples, and the public understand what constitutes an end of lifecycle activity. For example, under what circumstances are deactivation, decommissioning, or abandonment appropriate for a pipeline?

CER Proposed Options:

Adding definitions for:

- *In-service – when the pipeline is actively flowing, including the delivery or transport of oil, gas, or other commodity by pipeline, as a whole, to an end point, and*
- *Lifecycle - refers to the phases and activities involved in building, operating, and retiring energy infrastructure. For a pipeline, these would include design, construction, operation, decommissioning and abandonment (whether abandoned in-place or removed), including reclamation/restoration as well as monitoring of an abandoned pipeline.*

Amending the definitions of:

- *Decommission - means to permanently cease active flow of a pipeline or part of one where the pipeline, or part of one, is located in a shared right of way, with other pipelines in active flowing service, and*
- *Operate - includes repair, maintain, deactivate, and reactivate.*

Discussion Question:
B1. *Are there any comments on, or further suggestions regarding the new or amended definitions above?*

Enbridge Response:

The CER should, to the extent reasonable, align definitions with those established by other energy regulators and applicable standards as this would reduce inconsistency and misunderstanding by companies, Indigenous Peoples, and the public.

The CER should verify that the proposed changes do not result in unintended conflict with other standards, such as CSA Z662:23, which defines “in-service” and “Lifecycle” differently than the proposed definition in the topic paper. Specifically, under 7.17.1.2, in-service piping is defined as piping containing a service fluid at any pressure or flow rate, including zero in both, which is materially different than the CER’s proposed definition.

The proposed definition for “in-service” should not include the words ‘actively flowing’ as it implies any cessation of flow is a removal from service. This is problematic as all pipeline assets have periods when parts or whole segments are not actively delivering commodities to an end point. This definition could also impact relief systems and other assets designed for emergency, maintenance or standby purposes which are not intended to actively flow but are considered in-service.

The CER may want to consider clarifying the difference between “abandonment in-place” or “removed” in some form of guidance.

Enbridge supports amending the definition of 'Operate' to provide clarity on what activities are considered included.

CER Objectives for Improvement – Decommissioning

Help ensure that companies:

- *Have clarity regarding when it is appropriate to decommission a pipeline, and working towards eventual abandonment when feasible.*
- *Take into account impacts to the rights and interests of Indigenous Peoples when planning and undertaking decommissioning activities; and*
- *Plan their decommissioning activities in a manner that is safe and restores the environment appropriately, recognizing there are other active pipelines in the right-of-way*

CER Proposed Options:
The CER is considering making changes to section 45.1 of the OPR, in addition to changes to the definition discussed above.

Discussion Question:
B2. *Do you have feedback on how section 45.1 could be improved to address the comments received; for example, what elements should be included in a decommissioning plan?*

Enbridge Response:

Enbridge does not agree that changes to section 45.1 are needed, nor should there be a separate requirement for a decommissioning plan in the OPR. Under the current OPR, companies are already required to provide justification and procedures for decommissioning. Should the CER feel the need to clarify expectations, providing further guidance in the guidance notes would be the appropriate place and should be goal oriented, scalable, and explicit.

CER Objectives for Improvement – Oversight of decommissioned and abandoned pipelines
Help ensure that companies:

- *Maintain appropriate oversight through the implementation of relevant management system processes in relation to their decommissioned and abandoned pipelines.*

CER Proposed Options

- *Changes to section 6.5 of the OPR to include decommissioned and abandoned pipelines; that is, incorporating the establishment and implementation of management system processes, as appropriate, to decommissioned and abandoned pipelines.*

Discussion Questions:
B3. *What is your feedback on requiring companies to establish, implement and maintain a management system for decommissioned and abandoned pipelines?*

B4. *What should the scope of the management system be for decommissioned and abandoned pipelines?*

Enbridge Response:

The current requirements in the OPR provide the CER with sufficient authority to maintain oversight of decommissioned and abandoned pipelines. The proposed changes will introduce regulatory burden and cost.

Specifically, 6.1 (1) requires "A *company shall establish, implement and maintain a management system that*" "*(c) applies to all the company's activities involving the design, construction, operation, or abandonment of a pipeline and to the programs referred to in section 55".*

Restating the same or similar requirements in other OPR sections has the potential to create confusion. Requiring a new management system specific to decommissioned and abandoned pipelines will not necessarily reduce risk but will increase operator's costs, management system complexity, and could have a negative impact on management system performance. If the CER feels the need to add guidance to the already existing requirement, Enbridge suggests adding it to the OPR Guidance Notes.

CER Objectives for Improvement – Deactivation Notification

- *Deactivate their pipelines in an efficient manner. Changing the requirement from an application to a notification proactively informs the CER of plans to manage pipelines which will not be in service for a period of 12 months or more, but which may be needed for future service.*

CER Proposed Options:

- *Companies would be required to submit notifications rather than applications for deactivations.*
- *Such notifications must be submitted prior to the end of a twelve (12) month deactivation period and provide reasons for the deactivation.*
- *For pipelines that will be deactivated for prolonged periods, companies would be required to submit notifications to the CER before the end of every two (2) year deactivation period confirming the status of the deactivated pipeline. This requirement must be fulfilled until an application for change of status (application to reactivate, decommission or abandon the pipeline) is made to the CER.*

Discussion Questions:

B5. *Are there risks associated with requiring companies to file a notification for deactivation activities instead of filing an application, and if so, how could they be mitigated?*

B6. *Are there any concerns with the requirement to provide notifications on status to the CER every two (2) years during which the pipeline is deactivated to confirm that it is still being safely maintained in an operating state?*

Enbridge Response:

The accountability of an operator to maintain assets in a safe condition, regardless of their operational status, is clearly outlined in the current regulations. Enbridge respectfully responds

to the proposal and offers alternatives for consideration, rooted in the application of existing requirements, risk treatment alternatives, and risk-informed prioritization of resources.

Regarding discussion question B5, Enbridge supports the adoption of a notification process for deactivations, which includes providing a general rationale for deactivation.

Enbridge believes that the allowable inactive pipeline period that triggers a requirement to notify the CER about a deactivation should be set at 24 months. This timeframe improves alignment with the Alberta Energy Regulator.

For assets that have been inactive for a period of more than 24 and less than 48 months, Enbridge recommends that the OPR also allow for reactivation via a notification. This will enable industry to quickly respond to changing operational and commercial conditions while minimizing the risks associated with bringing deactivated pipe back into service.

Regarding discussion question B6, Enbridge believes that the requirement to notify the CER every two years that a deactivated asset is being maintained in an operating state is unnecessary because managing the safety of assets is a requirement, regardless of the asset's operational status. It is not evident how the proposed notification requirement, when layered onto existing requirements would reduce inactive asset risks. Section 10.15.1.2 in CSA Z662-23, incorporated by reference in the current OPR, states the requirements for maintaining deactivated piping and requires annual confirmation of deactivation methods used, corrosion control and other maintenance activities.

CER Objectives for Improvement – Monitoring Decommissioned and Abandoned Pipelines

- *Effectively monitor decommissioned and abandoned pipelines;*
- *Involve Indigenous Peoples in the planning of surveillance and monitoring activities for decommissioned or abandoned pipelines*

CER Proposed Options:

- *Expansion of section 39 to include surveillance and monitoring for decommissioned and abandoned pipelines*

Discussion Questions:

B7. *Do you have feedback regarding the applicability of section 39 of the OPR (surveillance and monitoring) to include provisions around monitoring of abandoned pipelines?*

B8. *Do you have feedback on how Indigenous Peoples can be involved in the monitoring of decommissioned and abandoned pipelines.*

Enbridge Response:

Enbridge believes paragraph 6.1(1)(c) of the OPR and the guidance notes for Section 39 "Surveillance may be defined as an aspect of monitoring, focused on certain parameters during periods of activity (construction, operation, and abandonment)" is sufficient to ensure decommissioned and abandoned pipelines are effectively monitored. The current wording is already goal oriented, scalable, and clearly worded.

Enbridge does not support including explicit provisions around the monitoring of abandoned and decommissioned pipelines in the OPR. Enbridge believes any changes to the OPR must be goal oriented, scalable, and clearly worded, but should not be prescriptive. Requirements related to surveillance and monitoring should be based on risk – pipelines in remote areas have a different risk profile than those in an urban area, and therefore, monitoring expectations of these assets should be different.

With respect to involvement of Indigenous Peoples, Enbridge believes there are opportunities for engagement and participation during the planning of an abandonment project, as well as during construction and post-construction monitoring, there are limited opportunities for Indigenous Peoples to be involved in the monitoring of decommissioned and abandoned pipelines, specifically when a material issue is detected, such as an exposure. Whereas additional sharing and participation may occur, regulated companies should retain broad flexibility to pursue collaborative interactions and information sharing with Indigenous People without the CER as a participant, regulator, or intervenor.

CER should be mindful that any changes to surveillance and monitoring in the OPR must not further constrain aerial patrols, which are already highly constrained due to weather, daylight, refueling, safety limitations and equipment size.

CER should also be mindful that additional surveillance and monitoring by Indigenous Peoples on private land can be highly contentious. Therefore, any changes may need to be limited to public lands and areas of traditional land use.

CER Objectives for Improvement: Retain records for decommissioned and abandoned pipelines.

CER Proposed Options:
Expanding section 56 to ensure that records relating to decommissioned and abandoned pipelines are maintained.

Discussion Questions:
B9. *Do you have feedback on including decommissioned and abandoned pipelines in section 56 of the OPR? For example, what is the appropriate record retention duration for these pipelines?*

Enbridge Response:

Prior to making any changes to the record keeping under the OPR, the CER should consider that CSA Z662 contains record keeping requirements under CSA Z662 section 3.4.3. Any changes to the OPR should not duplicate or cause conflict or confusion with CSA Z662.

Any new requirement should be limited to records which have probable future use. A list of specific records required by the CER would help ensure that the proper records are retained and not left to the interpretation of the companies. This list should be narrow in scope, as retaining records in physical form, and/or electronic form can become burdensome over time. With electronic systems constantly evolving, migration of such records from system to system adds complexity that could be mitigated by retaining fewer records for a shorter retention period.

Enbridge Response to Topic Paper C: Emergency Management

CER Objectives for Improvement

- *CSA Z246.2 (incorporation by reference)*
- *priorities to be considered within the EM Program*
- *consolidation of current regulatory framework requirements within the OPR*
- *liaison activities and the continuing education program, and*
- *the involvement of Indigenous peoples in EM*

CER's proposed options:

- *To meet the objectives outlined above, the CER is considering incorporating CSA Z246.2 into the OPR by reference.*
- *The CER is considering the following options to meet the objectives outlined above:*
  - *replacing the term "safety of workers or the public" with "people"; and*
  - *including adverse effects on sites of historic and cultural significance in subsection 32(1). For example, the revised provision could be worded as follows:*
    - *A company shall develop, implement and maintain an emergency management program that anticipates, prevents, manages and mitigates conditions during an emergency that could adversely affect people, property, sites of historic and cultural significance, or the environment.*
- *To meet the objective outlined above, the CER is considering adding to the OPR the requirements contained in the above-noted CER letters, Amending Orders, Best Practices, and Information Advisory.*
- *To meet the objective outlined above, the CER is considering clarifying requirements for "liaison activities" and "continuing education programs" by deleting those terms and replacing them with new Emergency Response Coordination and Emergency Management Information provisions. Emergency Response Coordination would focus on company interactions with those that may be involved in a response, and Emergency Management Information would focus on those that may be impacted during an emergency.*
- *To meet the objective outlined above, the CER is considering adding a requirement for a plan to involve Indigenous Peoples in the EM Program.*

Enbridge Response:

- Incorporation of CSA Z245.2 by reference into the OPR should only occur following resolution of any differences and/or conflicts in requirements, terminology, definitions, etc. between the two documents. One specific opportunity from Z246.2 that Enbridge supports incorporating is that companies should be able to reset the timing of their Full-Scale Exercise schedule based on real events.

- The suggested wording to replace "workers" with "people" is not advised, as the safety of workers and responders is a top priority during any Emergency Response and the tactics used for the protection of workers and first responders are very different than those protecting people not directly involved in the response effort. The complete

wording of the current OPR states that “a company shall develop, implement, and maintain an emergency management program that anticipates, prevents, manages and mitigates conditions during an emergency that could adversely affect property, the environment or the safety of workers and the public.” Changing the wording to reflect adverse affect to people is broad and reduces the emphasis on workers and first responders and is not in alignment with CSA Z246.2 Annex A.8 Hazard Identification and consequence analysis. The wording in that standard is explicit to the protection of potentially affected people and not adverse affect to people. The adverse affect to people contemplates socio-economic impacts in an emergency response which may or may not exist in every scenario. Socio-economic impacts during an emergency response could be part of an emergency response objective within the response structure (e.g. Incident Command System) and could be provided in guidance rather than be written into regulation. CSA Z246.2 also includes the protection of culturally sensitive areas (e.g., archaeology sites, sites of Indigenous significance, and/or historically significant areas). Enbridge proposes the following wording in the revised OPR (which also includes a change of “that could adversely affect” to “protect”):

    - A company shall develop, implement and maintain an emergency management program that anticipates, prevents, manages and mitigates conditions during an emergency to protect people, including workers and first responders, property, sites of historic and cultural significance, and the environment.

- Enbridge suggests that the CER refer to CSA Z246.2, Section 13 when clarifying requirements for “liaison activities” and “continuing education programs” with stakeholders. If required, the guidance notes could further differentiate the CER’s expectations around Emergency Management Coordination with responding stakeholders versus Emergency Management Awareness and Information provided to potentially impacted people.

- The CER’s Information Advisory IA2024-001 regarding CER’s expectations for Emergency preparedness and response for a potential fire incident at a liquid storage tank facility is very prescriptive and not goal oriented. The CER has emphasized to industry that the OPR will remain goal oriented and not be overly prescriptive. The Information Advisory as it is currently written makes assumptions on credible scenarios without the contemplation of hazard assessments and mitigation already in place. The current wording of the Information Advisory should not be introduced as regulation nor should it be used as guidance. The regulation should define the goal, with the intent written into guidance. How hazards are identified, assessed and mitigated should be left to companies to complete, document, and execute. The information advisory makes no mention of applicable fire codes that companies are required to comply with in their jurisdiction along with the authority having jurisdiction. If the CER incorporates CSA Z246.2 by reference into the OPR, Annex A.8 Hazard identification and consequence analysis contemplates the intent of the Information Advisory.

- Companies should be able to take credit for other jurisdictional exercise requirements when operators are exercising the same Emergency Response Plan and the same staff.
- Incorporating best practice into regulation is not advised as it does not allow for scalability or flexibility, nor is best practice well defined by all stakeholders. A reference to best practice could be including in the guidance notes for companies to follow and should never be mandatory. The Industry Best Practices for Indigenous Nations and Communities Involvement in Emergency Management does not define what involvement means. If adopting CSA Z246.2 Indigenous communities would only be involved as a stakeholder to inform or make aware of emergency management information. CER will need to clarify the expectations for companies in the guidance notes.
- The goal of the Emergency Management Program should align with CSA Z246.2 where companies must have a hazard identification process that identifies hazards that could result in the activation of emergency procedures to protect
    - potentially affected people
    - environment (e.g., air, soil, water, flora and fauna, and specific species of concern)
    - culturally sensitive areas (e.g., archaeology sites, sites of Indigenous significance, and/or historically significant areas), and
    - property.

Enbridge Response to Topic Paper D: Environment Protection

CER Objectives for Improvement – Contamination

- *report contamination to the CER for the full lifecycle of the pipeline; and*
- *manage contamination and any potentials risks in a manner that is timely and protects human health, property, and the environment.*

CER's proposed options:

- *if, at any time, a company becomes aware of contamination or potential contamination relating to the lifecycle operation of its pipeline, the company must:*
  - *as soon as practicable, confirm contamination with analytical testing; and*
  - *immediately report the details of the contamination to the Regulator.*
- *if contamination has migrated off the right-of-way or company owned or leased lands, a company must notify the Regulator immediately; and*
- *throughout the lifecycle of the pipeline, a company must manage contamination and any potentials risks in a manner that is timely and protects human health, property, and the environment.*

Enbridge Response:

According to the topic paper, the CER heard that the OPR "does not provide clear or explicit requirements" for managing contamination and that "requirements for reporting contamination should be clarified". Enbridge supports additional clarity but has concerns with some of the proposed language.

Specifically, the proposed requirement can be interpreted to require immediate reporting of 'potential contamination'. The phrase "potential contamination" is highly imprecise and will be subject to broad interpretation. It will result in significant over reporting and will be administratively burdensome. Enbridge recommends the requirement be changed to require immediate reporting of confirmed contamination. Similarly, the use of 'aware' in the proposed change is imprecise. Companies should be required to report once 'physical evidence' or 'laboratory results' confirm the presence of contamination.

Enbridge notes the proposed wording does not allow for post-incident remediation prior to notification. Under the current Remediation Process Guide, operators have 12 weeks post-incident to remediate a release before a Notice of Contamination must be submitted:

"A NOC is required when either of these two conditions are met:

...

2. Contamination resulting from an Incident cannot be remediated within 12 weeks of the Incident being reported to the CER."

This flexibility should be incorporated into the OPR.

The proposed requirement also far exceeds what is currently required under the Remediation Process Guide and the Canada Energy Regulator Event Reporting Guidelines. Updates to the OPR should be limited to aligning the OPRs with what is in the Remediation Process Guide and

the Canada Energy Regulator Event Reporting Guidelines, because the process established in these guides is working well, is resulting in the protection of human health, property and the environment, and is understood by industry and stakeholders.

CER Objectives for Improvement – Reclamation and Vegetation Management

- *the CER's expectations for reclamation, vegetation management and restoration are clear; and*
- *companies incorporate environmental protection into the relevant processes and procedures to monitor and patrol the right-of-way.*

CER's proposed options:

- *After a disturbance, the rights-of-way and temporary work areas (including temporary access) associated with the pipeline must undergo reclamation in a timely manner.*
  - *Reclamation means the process of re-establishing a site affected by company activities to a productive use that prevents or minimizes any adverse effects on the environment, people, property, sites of cultural and historical significance and use of the land.*
  - *Reclamation includes the stabilization and contouring of the surface of land, maintenance of soil, management of invasive species and weeds, revegetation, and return of the water regime to a pre-disturbance state.*
- *During operations, disturbance to vegetation must be minimized except as necessary to enable pipeline surveillance and monitoring, and ready access for maintenance activities and emergency response.*
  - *Vegetation must be managed in a manner that supports activities required to maintain the safe operation of the infrastructure but also encourages revegetation in sensitive areas and allows for restoration upon abandonment.*
- *As part of the abandonment activities, the right-of-way must be restored to a condition similar to the surrounding environment and consistent with pre-disturbance land use, where feasible.*
  - *These goals must be established in consultation with potentially impacted parties, including landowners and Indigenous Peoples (see subtopic 3 of the Rights and Interests of Indigenous Peoples, Socio-economic Effects, and Engagement paper for further information about the CER's proposal for engagement requirements).*

Enbridge Response:

Reclamation Standards

The CER appears to be proposing multiple, potentially contradictory reclamation standards. Specifically, the CER is proposing to define reclamation as "re-establishing a site … to a productive use" and "a condition similar to the surrounding environment" but also "pre-disturbance", a broad term which is not defined, and could be interpreted to mean prior to any development.

In many cases it will not be possible to meet all three standards at the same location. For example, a pipeline in an agricultural area should be restored to a productive agricultural use, based on the adjacent land use, not 'pre-disturbance' as this could be interpreted to mean prior to any contemporary development. The only time when a surrounding environment and pre-disturbance are aligned is when pipelines are located in remote, wetland, riparian and forested

areas on public land, and even in that circumstance the ROW often cannot be fully revegetated until after abandonment without potential reductions to the effectiveness of the pipeline surveillance and maintenance programs.

Enbridge believes the current OPR wording is appropriate and does not need significant revision. “After a pipeline is constructed, the right-of-way and temporary work areas of the pipeline shall be restored to a condition similar to the surrounding environment and consistent with the current land use.” Alternatively, Enbridge supports restoration to ‘functional equivalency’ with the surrounding area.

Enbridge is also concerned that long-term restoration of certain areas, like workspaces, is not possible as operators only lease the land temporarily and cannot achieve longer term restoration end points.

Vegetation Management During Operations

The CER’s proposed wording related to vegetation management during operations is problematic as it does not clearly permit vegetation management in all required circumstances. For example, vegetation management must also be allowed for wildfire prevention, site security (e.g. prevent falling trees from damaging fencing), safety (e.g. removing vegetation which could fall on people or property), and to prevent the spread of noxious and invasive species.

Enbridge supports changing the OPR to encourage operators to allow limited vegetation regrowth in the right-of-way. Examples where this may be appropriate include where an HDD is being used to install pipe and where periodic interruption of sight lines will aid in caribou habitat restoration.

Definition of Sites of Cultural and Historical Significance

The CER must clearly define what is included in “sites of cultural and historical significance”. In other Topic Papers, the CER uses slightly different terminology including: “sites of historic and cultural significance, both Indigenous and non-Indigenous” and “sites of Indigenous significance”. As currently proposed, the wording is extremely imprecise and will be interpreted broadly while not providing any additional impact mitigation.

CER Objectives for Improvement – Indigenous Monitoring

The objective of new requirements will be to help ensure that companies include Indigenous Peoples in the development, implementation, and monitoring of reclamation activities.

Enbridge Response:

Enbridge requests that regulated companies should continue to have broad flexibility to pursue reconciliation with Indigenous Peoples as a matter of priority and sustainability, outside of newly prescribed programs, processes, and requirements.

Enbridge supports involving Indigenous Peoples in monitoring programs throughout the lifecycle of pipelines, where the scale and scope of activities justify involvement, and when there are potential impacts to traditional use areas, Indigenous cultural and heritage sites and treaty

rights. Enbridge recommends any changes to the OPRs related to monitoring by Indigenous Peoples be goal oriented and scalable.

Enbridge is concerned with the 'independent monitoring' terminology. This terminology is broad and will be difficult or impossible to prove, especially in the context of Indigenous People, who often come from small communities that are highly inter-connected. Enbridge recommends such a standard not be included in the OPR.

If the CER updates the OPR to require the participation of Indigenous Peoples in monitoring, the CER must also clearly define their roles and limitations. Monitoring cannot start without an agreed-to set of goals, end points and triggers for remedial activity, which must be supported by industry, Indigenous Peoples, and the CER. Enbridge suggests that 'participation' is not always possible or feasible. Enbridge recommends the term be changed to 'engaged' as this provides more flexibility for operators and Indigenous Peoples. Monitoring should be limited to post-construction monitoring where valued components are potentially impacted.

CER Objectives for Improvement – Environmental Protection Plans

Help ensure that companies have an environmental protection plan in place for all work and activities, scalable to the scope of the work, including operations and maintenance activities.

CER's proposed options:

- *EP Plans will be developed and implemented for:*
  - *all construction projects*
  - *all operations and maintenance activities*
- *EP Plans would only need to be submitted to the CER through a condition requirement or by request; and*
- *EP Plans would be scalable to the size and scope of the work; for projects that have few or no environment interactions, the EPP could simply state there are no interactions.*

Enbridge Response:

Enbridge recommends any new requirement related to EP Plans be goal oriented and scalable. It is not necessary, nor valuable to require an EP Plan for 'all operations and maintenance activities' as there are many activities with zero or near-zero adverse environmental impact. Examples include painting, snowplowing, welding, electrical work, inspecting, line locating, operating motor vehicles on public roads, etc. Although the CER states "for projects that have few or no environment interactions, the EP Plan could simply state there are no interactions" this would be administratively burdensome, as the EP Plan will still need to be created, retained, communicated, and produced upon request, for no environmental benefit.

EP Plans should be required when there is a reasonable expectation that there will be an environmental impact that can reasonably be mitigated. Alternatively, if some form of environmental guidance is to be required for all operations and maintenance activities, companies should have the flexibility to produce some form of general environmental guidance which is not activity specific but provides potential means of reducing potential environmental impacts.

CER Objectives for Improvement – Transfer Environmental Information from Project - Operations

Help ensure that companies avoid gaps in transferring environmental information between the construction and operations phase of the pipeline and upon the sale or transfer of an asset.

The CER is considering adding a requirement to establish and implement a process for the transfer of relevant information between employees and other persons working with or on behalf of the company, from the design and construction stages to the operations stage, and upon sale or transfer of an asset.

Enbridge Response:

Enbridge does not agree the OPR should be updated to specifically require a process for the transfer of information between construction and operations, rather companies should continue to have broad flexibility in how they manage information applicable to a single pipeline lifecycle phase or that crosses pipeline lifecycle phases. Communication of information is already addressed by the OPR in section 6.5(1)(m) and subject to CER oversight.

CER Objectives for Improvement – Climate Resiliency Risk Evaluation

Help ensure that companies can anticipate, prepare, and respond to the impacts of hazardous events, trends, or disturbances related to climate.

The CER is considering adding a requirement that companies must incorporate climate resiliency into their evaluation of risks and risk mitigation.

Enbridge Response:

Enbridge does not agree that specific risks should be listed in the OPR. A more appropriate tool to capture the CER's expectation around climate resiliency would be in the form of guidance. Additionally, Enbridge does not agree that there should be an expectation to assess climate related risk 'on a continual basis', which is not possible and would be extremely costly. Rather, assessments should be undertaken 'periodically' when conditions warrant an updated assessment.

CER Objectives for Improvement – ISO 14001

- *companies are clear about the CER's expectations regarding management systems and the environmental program; and*
- *gaps that might exist in relation to the management system requirements and environmental protection are addressed.*

The CER is considering incorporating elements, or the entirety of ISO 14001 into the OPR or related guidance.

Enbridge Response:

Enbridge does not support adoption of ISO 14001 and related ISO standards and technical guidance by reference in the OPR. The current OPR requirements related to management systems are understood, implemented, and have been tested. Changing to ISO would be incredibly disruptive and burdensome for regulated companies with mature management systems. The CER's stated objective for incorporating ISO 14001 is, in part, to address 'gaps that might exist', however the CER has not communicated any specific gaps related to the expected content of a company's Environmental Protection Program per the requirements of subsection 6.5(1) of the OPR, , including in Information Advisory IA 2023-002 – Management System Audits that summarizes the CER's findings of audits completed during 2022-23 related to the management of contaminated sites, nor is Enbridge aware of any gaps that would justify adopting an ISO standard and a subsequent rewrite of a company's Environmental Protection Program.

Enbridge Response to Topic Paper E: Human and Organizational Factors

Objectives for Improvement - Workplace System Understanding and Improvement

Help ensure that companies better understand and manage socio-technical hazards that can impact safety and environmental protection outcomes and proposed the following:

- *Adding a definition of HOF to the Interpretation section of the OPR.*
  - CSA Z662 also provides definitions for human factors and organizational factors in Annex A.1. Any definition should not conflict with CSA Z662.
- *Adding clarifying language to section 6.5(1)(c) so that the process for identifying and analyzing all hazards and potential hazards includes consideration of the HOF discipline and relevant performance influencing factors.*
- *Adding clarifying language so that management system process(es) related to near-miss and incident investigations identify both causal and contributing factors, including those related to HOF and relevant performance influencing factors.*
  - Consider that a definition of HOF could be added to the Interpretation section of the OPR.
  - Illustrate how 6. 5 (1)(c) is already inclusive of
  - >human and organizational factors and
  - >how near-miss and incident investigations identify both causal and contributing factors, including those related to HOF and relevant performance influencing factors.
  - Recommend that any clarifying language or guidance be captured in the Guidance notes for the OPR.

Enbridge Response:

In lieu of introducing new OPR requirements and definitions, the CER should focus on guidance that clarifies CER expectations related to HOF in the context of existing management system requirements and existing, applicable standards. Any clarifying language should be captured in the Guidance notes for the OPR. For example, the CER could provide guidance on the expected focus and application of HOF to different staff functions/types (e.g., field, control room, office staff, etc.).

The resources posted on the CER's Safety Culture Learning Portal are useful in developing understanding and providing ways for organizations to define and articulate the principles of HOF. Continued development of additional educational materials on the topics of local rationality, performance variance, just culture, demands/pressures, constraints and trade-offs could be beneficial.

E.10 *The CER would like to better understand the concerns related to the possibility of inherent cultural bias within the HOF discipline and its implementation. Please describe and share examples of how the HOF principles and/or performance influencing factors may be impacted by cultural bias(es). Please also describe how Indigenous knowledge could inform the implementation of HOF within pipeline companies.*

Enbridge Response:

The proper application of HOF principles should act to reduce biases in that the approach depends on asking better questions to explore multiple perspectives.

Objectives for Improvement - Strengthening Organizational Learning

Help ensure that companies:

- *are aware of the CER's expectation that management system design and implementation must effectively enable organizational learning and continual improvement;*
- *adjust their management system design and implementation to strengthen organizational learning and continual improvement; and*
- *develop and implement effective management system processes that enable organizational learning from both internal and external events (e.g., near-misses and incidents that occur across the pipeline industry or in other high-hazard industries, as applicable).*

The CER is considering the following options to meet the objectives outlined above:

- *adding a descriptive clause to OPR section 6.1 that clarifies a company's management system(s) must facilitate learning and continual improvement;*
- *adding clarifying language to the end of the section 6.5(1)(x) management system provision to explicitly note that the annual management review (of the management system and each program currently referred to in section 55) must facilitate organizational learning and continual improvement as outcomes;*
- *adding a requirement for dissemination of lessons learned to employees and/or those working for or on behalf of the company as a result of hazard analyses, risk management processes, and near-miss or incident investigations; and*
- *adding a requirement to establish and implement a process for learning from external events (e.g., experienced by other members of the pipeline industry), including near-misses and incidents to inform the identification of hazards, management of risks and the implementation of controls.*

What is your feedback on new requirements designed to strengthen organizational learning and continual improvement?

Enbridge Response:

Current CER management system expectations address the requirement for continual improvement and no changes are required to the OPR in this regard. Enbridge's management system facilitates learning and continual improvement as an element across all management system programs. The CER's objectives for improvement related to strengthening organizational learning should be addressed through guidance in the context of existing management system requirements.

***E.12** What guidance would enhance your understanding and use of organizational learning processes?*

Additional resources, tools, and forums for sharing external industry learnings would be beneficial for enhancing understanding and use of organizational learning processes.

Proposed language – "must facilitate learning and continual improvement" is too prescriptive and may not be possible for a variety or reasons (e.g. technology limitations, stakeholder requirements, risk profile, etc.). Regulated companies must be able to self define and determine what is adequate and relevant for their continual improvement goals and objectives. Continual review to validate its controls are adequate and relevant should be kept as the minimum requirement in the OPR.

***E.13** Do you have any feedback with regards to how the CER would provide oversight of organizational learning related processes and outcomes?*

The CER currently uses compliance verifications to assess companies. The CER should continue using this process to assess whether companies are reviewing and validating their management system, identifying opportunities if applicable, and executing on them in a reasonable timeframe.

***E.14** Please indicate the benefits and costs that you anticipate would come from incorporating requirements related to HOF (i.e., those related to workplace system understanding and improvement and strengthening of organizational learning) into the OPR.*

Incorporation of HOF requirements into the OPR (depending how prescriptive and detailed they are) may add additional costs for organizations.

CER's proposed language of "must facilitate continual improvement" will force companies to create goals and objectives that may not be necessary to better protect people, environment, and property.

Enbridge Response to Topic Paper F: Management System and Contractor Management

Subtopic 1: Management System Requirements

Objectives for Improvement
The objectives of new requirements will be to help ensure that:

- *the CER's management system provisions are clear;*
- *regulated companies implement management systems, processes, and procedures that are adequate and effective;*
- *companies continually improve their management systems throughout the pipeline lifecycle; and*
- *companies are clear as to the CER's requirements regarding their respective integrated management systems, and that the protection programs mentioned in the OPR are part of, and therefore subject to, their integrated management system.*

Proposed Options
The CER is considering the following options to meet the objectives. These options include potential amendments to sections 6.1 through 6.6 of the OPR, including but not limited to:

- *rewording and/or restructuring some provisions to improve clarity;*
- *adding new management system components in areas that are absent; and*
- *requiring companies to keep an up-to-date list of all the policies, processes and procedures referred to in sections 6.1 through 6.6 and programs referred to in section 55 of the OPR.*

Enbridge Response:

Enbridge strongly supports the CER's stated objective of ensuring that "the CER's management system provisions are clear" and the proposed option of "rewording and/or restructuring some provisions to improve clarity". To be effective, management systems should be established based upon an individual company's structure and activities. For this reason, regulatory requirements for management systems should remain performative and outline expected outcomes. In this respect, the OPR currently provides an approach for the establishment and maintenance of management systems that is, in general, comprehensive and reasonably clear. However, enhancing clarity in several areas may support both (1) the efforts of pipeline companies to implement management systems that are adequate and effective, and (2) the consistency and effectiveness of the CER's oversight activities with respect to management systems.

The CER could consider removing terms such as "process" and "program" within the management system provisions and elsewhere in the OPR, as pipeline companies are best positioned to determine what types of control documents would best drive the intended outcomes of their activities. A focus on control terms like 'process' and 'program' results in less clarity regarding the desired outcome. This is not restricted to the terms used in the management system section but throughout the document (e.g., programs other than the Section 55 programs). It is recommended that clauses throughout the OPR be reconsidered and redrafted where appropriate to highlight expected outcomes rather than focusing on the type of document that is required. If terms such as 'process' and 'program' continue to be used, the

CER could include an option for a company to demonstrate compliance through alternative methods. This would allow a company to clearly illustrate how they meet process requirements, such as roles and responsibilities, without necessarily providing a specific 'process' document. For example, a 'process' document may not be the only approach to achieving the intended outcomes of paragraphs 6.5(1)(l) ("a process for making employees and other persons working with or on behalf of the company aware of their responsibilities in relation to the processes and procedures required by this section") and paragraph 6.5(1)(n) ("a process for identifying the documents required for the company to meet its obligations under these Regulations").

Feedback regarding specific discussion questions (F1, F3, F4, F5, F7, F9) is provided below.

***F1**. Are there industry best practices that could inform management system related requirements in sections 6.1 through 6.6? Please be as specific as possible.*

Enbridge supports the CER providing examples of how companies can meet OPR expectations in guidance notes, including best practices. However, Enbridge opposes incorporating best practices directly into OPR requirements, as it would limit pipeline companies' flexibility to adopt fit-for-purpose practices.

***F3**. Are there any management system components you wish to see added to the OPR? Please explain.*

Enbridge has not identified any management system requirements that should be added to the OPR. Any additional requirements that are proposed should be aimed at achieving a specific, intended outcome and should be based on perceived gaps that the CER has identified during its oversight activities related to the current management system provisions in the OPR. Regulated pipeline companies should have the opportunity to discuss perceived gaps with the CER. It may be feasible to address these gaps through alternative solutions rather than by adding more management system components.

***F4**. Are there any management system provisions in the OPR that require clarification? If yes, please explain the issue, identify the provision, and propose a solution.*

Guidance documents are valuable sources of information for pipeline companies, as they provide insights into interpretations and expectations associated with OPR requirements. The CER could consider consolidating various guidance documents regarding management systems into one source, preferably the OPR guidance notes. It is recognized that guidance, in the form of OPR guidance notes, the *CER Management System Requirements and CER Management System Audit Guide*, audit protocols, and safety and information advisories continue to evolve in response to findings and observations during compliance verification activities. Consolidating guidance regarding management system requirements into one location would improve accessibility of guidance and facilitate greater clarity regarding requirements and expectations.

F5. *What is your feedback on a new potential requirement for companies to establish and maintain an up-to-date list of all the policies, processes and procedures referred to in sections 6.1 through 6.6?*

This potential new requirement is an example of the CER defining the type of control (i.e., list) to achieve a purpose without outlining the purpose or expected outcome. Enbridge understood from the working session with the CER that this potential new requirement would allow the CER line of sight to a company's management system controls and allow planning of assessment activities. If so, it is unlikely that companies maintaining a list of controls for unknown future assessment types is the most effective approach. Rather than requiring a list to accomplish this, Enbridge recommends reviewing and explaining the intended outcome thereby allowing companies the flexibility to outline and illustrate their management system structure or document hierarchy in an approach that fits their organization. A list may not be an effective approach.

F7*. Are there any opportunities to improve scalability of management system requirements? If yes, please identify the provision, explain the issue, and propose a solution.*

Enbridge appreciates that the importance of scalability of management system requirements is already reflected in paragraph 6.1(1)(e), which requires that a company "establish, implement and maintain a management system that corresponds to the size of the company, to the scope, nature and complexity of its activities and to the hazards and risks associated with those activities". Paragraph 6.1.1(e) is interpreted to mean that each of the management system requirements in sections 6.1 to 6.6 can be scaled as appropriate to fit the circumstances of each company. As such, Enbridge does not have any suggestions for improving the scalability of management system requirements in the OPR.

F9*. "Quality assurance program" is used in two contexts in the current OPR, once in relation to the quality assurance program that must be implemented to evaluate the adequacy of the management system in its entirety and specifically for the programs identified in section 55 [see section 6.5(1)(w)] and again in section 15 whereby the company must develop a quality assurance program for the purpose of ensuring that the pipe and components to be used in the pipeline meet the specifications discussed in section 14 of the OPR. Do you find this confusing? If so, what solution would you propose?*

Enbridge agrees that there is potential for confusion regarding the use of "quality assurance program" in two different contexts in the OPR. The CER could consider applying clarifying terminology by designating section 15 as Quality Management, which focuses on the pipe and components, and paragraph 6.5.1(w) as Assurance Management, which covers the broader evaluation of the management system, including the asset lifecycle.

Subtopic 2: Management of Contractors Providing Services and/or Products Across the Pipeline Lifecycle

Objectives for Improvement
The objectives of new requirements will be to help ensure that companies:

- *understand CER contractor management requirements; and*
- *strengthen company management of contractors providing services and/or products across the pipeline lifecycle.*

Proposed Options
The CER is considering the following options to meet the objectives outlined above:

- *adding an explicit requirement for a contractor management process within the OPR management system provisions; and*
- *developing technical guidance to articulate CER requirements related to contractor management.*

Enbridge Response

Enbridge does not support adding an explicit requirement for a contractor management process within the OPR. The lack of clarity and consistency concerning the applicability of existing requirements in the OPR to contractors should be addressed before introducing another management system requirement that will potentially create further confusion regarding the applicability of existing requirements, their relationship to the proposed new requirement, and the CER's overall expectations.

The absence of a comprehensive, clear and logically consistent explanation of contractor oversight has resulted in pipeline companies being subjected to varying articulations and interpretations of requirements related to contractor oversight by CER inspection officers during compliance verification activities such as audits, field inspections and information exchange meetings. Technical guidance that is robust and carefully developed could resolve these issues and should be given an opportunity to be applied by pipeline companies and assessed by CER inspection officers before additional regulatory burden is introduced through new requirements in the OPR.

Enbridge strongly supports the CER's proposed option to develop technical guidance that articulates CER expectations related to contractor oversight. Proposed considerations for technical guidance are provided below.

1. Definition of "contractor": Technical guidance should clarify what is meant by "contractor" in the context of CER-regulated companies and assets. CSA Z662:23 (*Oil and gas pipeline systems*), which is incorporated by reference in OPR 4(1), defines "contractor" as "the prime contractor and any subcontractors engaged in work covered by this Standard". Expectations related to oversight by pipeline companies of subcontractors should be explained (e.g., are pipeline companies expected to provide oversight of subcontractors to the same degree that they provide oversight of contractors, etc.). In addition, the CER has provided important guidance regarding the applicability of the prime contractor model to third-party contractors performing work on behalf of a CER-regulated company (see section 5.2 in CER Management System Requirements and CER Management System Audit Guide); this

guidance may render problematic the inclusion of “prime” in the definition of “contractor” in CSA Z662:23 and should form an integral part of any new technical guidance that the CER is developing with respect to contractor oversight. Enbridge suggests the CER use already defined terms in CSA Z662.23 or other applicable regulations and provide guidance on their use and applicability along with the CER’s expectation of oversight.

2. Authorization to halt work: OPR 18(1)(d) requires a company to authorize a person to halt a construction or maintenance activity when, in that person’s judgement, the activity “is not being conducted in accordance with the manual developed under section 20 or is creating a hazard to anyone at the construction site”. OPR 18(2) requires that the authorized person have “sufficient expertise, knowledge, and training” to competently carry out the obligation set out in OPR 18(1)(d). These two provisions of the OPR were included in the protocols for the contractor oversight audits conducted by the CER in 2019; however, the guidance note for section OPR 18 is silent regarding these two provisions. OPR 29 includes similar provisions with respect to maintenance safety, and the corresponding guidance note is also silent regarding these provisions. It would be helpful to have guidance from the CER regarding these provisions, including, but not limited to, an explanation of the philosophical underpinning for this requirement and how this requirement is intended to relate to, and/or be distinct from, a worker’s right to refuse unsafe work under Part II of the *Canada Labour Code*.

3. Management system processes (OPR 6.5(1)): As noted in the earlier paragraphs above, the inclusion or exclusion of the phrase “and other persons [or “people”] working with or on behalf of the company” in the wording of the management system processes in OPR 6.5(1) does not appear to be a reliable indicator of whether the pipeline company is expected to apply the management system process to contractors working on its behalf. In addition, the existing guidance note for OPR 6.5(1) is brief relative to the number of management system processes that are required, although helpful guidance related to these management system processes is provided elsewhere. Enbridge would like to see guidance related to management system processes consolidated into one location for ease of reference and that detailed guidance for each management system process be provided, including expected outcomes and definitions of terms for added clarity (e.g., “abnormal event” “potential hazard”, etc.). For the purpose of contractor oversight, the guidance for each management system process should explain whether, and how, the process is intended to be applied to contractors, along with examples or suggested approaches or considerations that might meet expected outcomes (e.g., for OPR 6.5(1)(j)(k), what might developing competency requirements and training programs for contractors look like, and what might constitute meaningful verification of competency and training of contractors).

4. Oversight versus Management: The terms “management” and “oversight” should not be used interchangeably in this context. Each term may have a distinct meaning with its own set of distinct implications. For example, it can be argued that “management” is not the right term, as it suggests a level of responsibility and direction that a pipeline company has with its own employees but not with contractors (i.e., a pipeline company manages its own employees but does not manage contractors). Enbridge recommends the use of “oversight”

instead. Technical guidance should include a discussion of these terms and provide definitions along with an explanation of why a particular term has been chosen.

5. Scalability of contractor oversight requirements – Guidance should be offered to help pipeline companies determine the contracted services that are in scope in terms of contractor oversight as treated in the OPR and how contractor oversight requirements (e.g., applicable management system provisions, etc.) are intended to apply, or scale, to different contracted services and scopes of work (e.g., pipeline excavation services versus janitorial services, etc.). Risk-based approaches could be encouraged as part of this determination.

6. Products and services: The title of this subtopic ("Management of Contractors Providing Services and/or Products Across the Pipeline Lifecycle) includes the word "products". Enbridge recommends that the focus of contractor oversight should be on services, not products, and that "products" should be removed from consideration. Oversight of contractors at a construction or maintenance site may include contractors that are providing services only and/or services in relation to products that they have supplied, which is fine – the pipeline company can provide oversight of the contractor in these situations. However, in the case of a contractor that is providing a product only and is not present at a construction or maintenance site to deliver a service in relation to that product, contractor oversight might confusingly default to management of a product rather than oversight of a contractor.

7. Elements of contractor oversight: Regarding question F12, although Enbridge does not support the addition of a new management system process related to contractor oversight, Enbridge does not oppose the provision of technical guidance that suggests that a pipeline company can consider the development of a contractor oversight process, as long as it is clear that such a process is not a mandatory requirement. Technical guidance could suggest elements of an effective contractor management process, but the suggested elements should be meaningful and carefully explained to promote consistent understanding and interpretation by pipeline companies and CER inspection officers (e.g., without explanation and corresponding expectations, the suggested element of "leadership and cultural factors" is too significantly broad in scope to apply appropriately in this context).

Enbridge Response to Topic Paper G: Pipeline Integrity

Subtopic 1: Definition of Onshore Pipeline

Objective for Improvement
The objective is to include new requirements in the OPR that apply to CER-regulated onshore pipelines transporting hydrogen and carbon dioxide in a gaseous state instead of imposing authorization-specific conditions that emulate provisions in the OPR that apply to hydrocarbon pipelines.

Other commodity pipelines (such as dense phase carbon dioxide, water, or slurry pipelines that fall within the definition of pipeline pursuant to the Canadian Energy Regulator Act) would continue to be regulated on a case-by-case basis pursuant to the applicable provisions of the CER Act and the conditions contained in their specific authorizations.

Proposed Option
The CER is considering amending the definition of onshore pipeline in the OPR to include the transmission of hydrogen and carbon dioxide in a gaseous state.

Enbridge Response

***G1**. Please provide feedback on the proposed change to the definition of onshore pipeline to include hydrogen and carbon dioxide in a gaseous state.*

Based on the information presented in the paper, it is not clear how blended gas systems (e.g., hydrogen – natural gas blend) will be considered within the proposed definition. With technology evolving, the CER could consider providing a more general change to the definition that contemplates any commodity transported through a pipeline system.

Subtopic 2: Use of technologies for which no standard is set out in the OPR

Objectives for Improvement
The objective of new requirements will be to help ensure that companies proposing to use technologies for which no standard is set out in the OPR implement them in a manner that is safe and protective of people, the environment, sites of historic or cultural importance, and property.

Proposed Options
The CER is considering the following options to meet the objective outlined above:

- *adding a new requirement to section 5.1 to include a notification to the CER where a company plans to use a technology for components, processes, or systems:*
  - *for which no standard is set out in the OPR, and*
  - *which has not been independently reviewed and publicly released.*
- *adding a new requirement that companies establish and implement a process for evaluating a technology for which no standard is set out in the OPR, and which has not been independently reviewed and publicly released.*

Enbridge Response:

***G2**. What would an appropriate review period be for a notification?*

Enbridge recommends that, if implemented, the notification period be not more than 90 days prior to the use of the technology.

***G3**. Do you have comments on the proposed approach or suggestions for alternatives?*

Enbridge supports the proposed requirement for companies to establish and implement a process for evaluating a technology for which no standard is set out in the OPR. Enbridge disagrees with use of the term "independently reviewed and publicly released" since this term is not clearly defined.

Subtopic 3: Pipeline Design

Objective for Improvement
The objective of new requirements will be to help ensure that companies appropriately assess, mitigate, and manage risk from pipeline design, through construction and operation and finally, abandonment.

Proposed Options
The CER is considering the following options to meet the objective outlined above:
1. *adding a requirement for pipeline design to include supporting risk assessments;*
2. *adding a requirement for companies to perform geohazards assessments to determine potential risks to the pipeline; and*
3. *adding a requirement for companies selecting trenchless technology for pipeline installations to notify the CER if the installation occurs under a water body or if the installation is large and occurs over land.*

Enbridge Response

***G4**. Please provide feedback on the inclusion of these new requirements. Provide feedback on the threshold size of the installation mentioned in option 3.*

The options listed will provide limited benefit in terms of safety. Risk assessments and geohazard assessments are completed by pipeline operators as part of their integrity management programs under the current regulations. Instituting a new requirement to notify the CER when using trenchless technology provides no clear benefit and may lead some operators to avoid these methods, which could result in avoidable environment impacts.

***G5**. Please provide feedback on the impact of these new requirements on safety throughout the lifecycle of the pipeline.*

Risk assessments and geohazard assessments are completed by pipeline operators as part of their integrity management programs under the current regulations. Including the options listed would provide limited benefit in terms of safety and may have unintended consequences.

Subtopic 4: Storage Facilities

Objective for Improvement
The objective of new requirements will be to help ensure that companies improve safety for people living, working, or exercising rights near storage facilities.

Proposed Options
The CER is considering the following options to meet the objective outlined above:

- *adding a requirement that storage facilities have an alternate source of power for emergency shut-down, emergency lighting for evacuation, and maintaining other essential services;*
- *adding a requirement that storage facilities are designed and constructed to have a secondary containment system capable of containing ignited spills such that the fire does not expose other tanks or adjoining property to ignition;*
- *adding a requirement that storage facilities are designed and constructed to have fire detection and fire protection; and*
- *adding a requirement that companies have the demonstrable capability to safely extinguish a fire at their storage facilities.*

Enbridge Response

***G6**. Please provide feedback about these proposed options.*

- *adding a requirement that storage facilities have an alternate source of power for emergency shut-down, emergency lighting for evacuation, and maintaining other essential services;*
- *adding a requirement that storage facilities are designed and constructed to have a secondary containment system capable of containing ignited spills such that the fire does not expose other tanks or adjoining property to ignition;*
- *adding a requirement that storage facilities are designed and constructed to have fire detection and fire protection; and*
- *adding a requirement that companies have the demonstrable capability to safely extinguish a fire at their storage facilities.*

Enbridge does not support new requirements or guidance based on these proposed options or based on Information Advisory IA 2024-001. The proposed options, along with Information Advisory IA 2024-001 that describes the CER's expectations for emergency preparedness and response for a potential fire incident at a liquid storage tank facility, are overly prescriptive rather than goal-oriented, and they include assumptions regarding credible scenarios without considering hazard assessments and mitigations already in place. Enbridge respectfully requests that the CER demonstrate, for example via studies and/or risk assessments, justification for additional regulation in this area.

How hazards are identified, assessed and mitigated should be left to companies to complete, document, and execute. The CER's proposed options and the Information Advisory do not reference applicable fire codes that companies are required to comply with in their jurisdictions along with the authority having jurisdiction. As an alternative to the proposed options, the CER could consider incorporating CSA Z246.2 *Emergency preparedness and response for petroleum*

and natural gas industry systems by reference. Section 8 (Hazard identification and consequence analysis) of that standard contemplates the intent of these options and the Information Advisory.

Subtopic 5: Quality Assurance Program – Traceability

Objectives for Improvement
The objectives of new requirements will be to help ensure that companies:
1. *use only materials meeting applicable standards; and*
2. *maintain appropriate records in regard to materials used on their pipelines.*

Proposed Options
The CER is considering the following options to meet the objectives outlined above:
- *adding a requirement that materials to be used in the manufacturing, fabrication, construction, and maintenance of the pipeline and pressure vessels be traceable, where traceability means the ability to trace the history, use and location of a pipeline material and its characteristics, including material properties, inspection, and testing data, through recorded identification data throughout the life of the pipeline;*
- *adding a requirement that if a company verifies that it has received, installed, or has in service materials that do not meet applicable standards or company specifications, the company must notify the CER;*
- *adding a requirement that companies must ensure that materials of steel pipe and components to be installed on the pipeline have proven notch toughness properties for fracture resistance, except under conditions where the pipe and components:*
    - *have inherent notch toughness properties; or*
    - *are too small to yield meaningful notch toughness results; or*
    - *operate at such low stress levels that fracture is not considered to be notch toughness dependent; and*
- *adding a requirement that all information with respect to the quality assurance program be retained for at least two years after abandonment.*

Enbridge Response

***G7**. Please provide feedback on the proposed approach.*

Traceability requirements should only be applied on a go-forward basis (not retroactively to existing facilities) and only to larger diameter pipeline facilities that will operate at a higher stress level (e.g., above 30% SMYS). Also, the phrase “materials used in manufacturing, fabrication, construction and maintenance” is prohibitively broad. Materials used in manufacturing could be interpreted to include raw materials (source of alloy elements), welding consumables, hydrotest water, etc., the traceability of which is impracticable and of limited value.

Enbridge could support the requirement for operators to notify the CER when materials that fail to meet applicable industry standards have been installed (not yet placed into service) or are in service. However, notification to the CER upon receipt of materials that fail to meet applicable industry standards would be unnecessarily onerous as these items may be rejected or repaired prior to use (e.g., re-facing a damaged flange). Similarly, notification to the CER upon failure to

meet company specifications would serve no useful purpose provided that applicable industry standards are met (e.g., pressure vessel painted the wrong colour).

Enbridge does not support additional requirements related to notch toughness. Notch toughness requirements are defined in CSA Z662:23 Table 5.1 and are adequately addressed by the standard.

Enbridge does not support a requirement "that all information with respect to the quality assurance program be retained for at least two years after abandonment" as is it not specific or practicable.

Subtopic 6: Definitions connected to operating pressures

Objectives for Improvement
The objective of new requirements will be to help ensure that companies are clear about the CER's expectations regarding maximum operating pressures

Proposed Options
The CER is considering the following options to meet the objectives outlined above:

- *adding a definition for **Approved Maximum Operating Pressure:** The maximum pressure for a pipeline system, or designated portion thereof, as approved by the Commission in a Leave to Open Order or a different authorization such as an order or certificate;*
- *adding a definition for **Qualified Maximum Operating Pressure**: The maximum pressure at which a pipeline system is qualified to be operated, not to exceed the design pressure or the approved maximum operating pressure or the amended maximum operating pressure; and*
- *adding a definition for **Amended Maximum Operating Pressure**: The maximum pressure for a pipeline system, or designated portion thereof, as established by revised design criteria, not to exceed the approved maximum operating pressure.*

These will result in two consequential impacts:

- *since both the Approved Maximum Operating Pressure and the Amended Maximum Operating Pressure are based on design criteria, if a company wishes to increase either one of these Maximum Operating Pressures (MOPs) it will need to apply for the increase to the CER pursuant to section 43 of the OPR; and*
- *if a company wishes to reduce the MOP as a corrective measure for a class location change, this reduced MOP is now the Amended MOP, and future increases would be subject to s.43, requiring an application for the increase to the CER.*

Enbridge Response

***G8**. What is your feedback on this proposed approach?*

The proposed additional MOP definitions as described in this topic paper and as explained during the OPR/FM Industry Technical Engagement Workshop on January 9, 2025, do not add clarity to the CER's expectations concerning maximum operating pressures. Alternatively, the CER could take a more direct approach to the stated objective for improvement, especially one that ensures alignment with how maximum operating pressure is treated in CSA Z662:23. Enbridge recommends that, prior to making any regulatory changes, the CER provide regulated industry with examples or scenarios to illustrate (1) how the proposed options meet the

objective for improvement, and (2) the consequential impacts, including when an application pursuant to s. 43 would be required in relation to the proposed additional MOP definitions.

Enbridge Response to Topic Paper H: Reporting Harm

CER Objectives

- *the definition of incident*
- *incident near-misses*
- *those incidents that have the potential to harm the environment*
- *industry-wide learning opportunities from reported incidents, and*
- *sites of historic and cultural significance*

CER's proposed options:

- *To meet the objective outlined above, the CER is considering amending the definition of incident*
- *To meet the objectives outlined above, the CER is considering a risk matrix or similar decision-making tool located within technical guidance that can assist regulated companies in assessing severity, consequence, likelihood and probability of escalation.*
- *To meet the objective outlined above, the CER is considering amending the definition of "incident" to include a requirement to notify the CER of security incidents such as loss of operational view and operational control of a pipeline.*
- *The CER is considering the following options to meet the objectives outlined above:*
  - *lowering the volume threshold for notifying the CER of an LVP release within the definition of incident in the OPR; and*
  - *changes to the reporting threshold specified within the definition of incident in the OPR regarding a gas or HVP hydrocarbon release.*
- *To meet the objective outlined above, the CER is considering a new OPR reporting requirement for companies to notify the CER of any high-potential incident near miss relating to the construction, operation, or abandonment of its pipeline.*
- *To meet the objective outlined above, the CER is considering implementing processes to assist companies in their learning and continual improvement in this area.*
- *To meet the objective outlined above, the CER is considering adding a new reporting requirement in relation to damage to a site of historic or cultural significance, subject to confidentiality agreements signed by companies and Indigenous communities and any applicable provincial or territorial requirements.*

Enbridge Response

Enbridge cannot comment on the proposal to amend the definition of "incident" until the CER provides specific language on the proposed incident definition amendment. Enbridge does not believe any amendment to the definition of an incident is required. Based on the current definition, a review of the newly published Event Reporting Guide, and Enbridge's submission of comments during the CER's 2023 Draft review of the Event Reporting Guide, Enbridge provides and reiterates the following comments.

Serious Injury definition and reporting requirements

Enbridge acknowledges the importance of notifying the CER of instances of a death or serious injury associated with the construction, operation, or abandonment of its pipelines. The newly published Event Reporting Guidance on serious injury reporting, however, is confusing and unnecessary. Guidance should be clear, concise and simple.

In cases where the death or serious injury occurs or is recognized following a person's time on an Enbridge worksite, this notification responsibility should not be dependent upon a time period but, rather, as a result of the conclusion of appropriate investigation.

Companies have no control or visibility of events that occur outside of their worksite or after hours. In most cases, companies are also not able to gather confidential medical information nor are they able to speculate on the extent of an injury or cause of death.

Suggested wording as follows:

> *The OPR does not differentiate between different types of persons. Therefore, companies must report a death or serious injury to any person relating to the construction, operation, or abandonment of its pipeline regardless of whether the death or serious injury was to a pipeline company employee, a contractor working for the pipeline company, or a member of the public. Examples include:*
>
> - *Death or serious injury to a person that has been confirmed it has resulted from pipeline construction, operation, or abandonment activities*
> - *Death or serious injury to a person involving a vehicle or mobile equipment confirmed to being operated in relation to pipeline construction, operation, or abandonment activities*
>
> *If the extent of an injury related to pipeline construction, operation, or abandonment cannot be confirmed within the reporting time frame, companies are expected to apply the precautionary approach. Examples include:*
>
> - *Death or serious injury to a person that was discovered on company owned/leased property*
> - *medical aid is given to a person suspected of a serious injury and medical follow-up is expected*
> - *a person is being transported to a hospital with a suspicion of a serious injury*

Any obligation to report, real or precautionary, beyond these examples should only be completed once a company receives confirmation through an investigation (e.g., contractor investigation, internal investigation, medical professional assessment, or other) that the death or serious injury was related to the construction, operation, or abandonment of pipeline.

<u>Canada Labour Code (CLC)</u>

Enbridge recommends adding a section in the CER Event Reporting Guide to provide clarity on CLC and Occupational Health & Safety (OHS) reporting obligations – Hazardous Occurrence Investigation Reporting (HOIR) guidance. Conversations with industry members on this reporting requirement have identified different expectations or guidance from the CER. Companies are obligated to report to Employment and Social Development Canada (ESDC) and should continue to complete this reporting requirement directly to them to meet their legal requirement. Knowing the CER has staff acting on their behalf, the ESDC and the CER should have a process in place where the ESDC notifies the CER about any reports made to them from

a CER regulated individual. This model would align with Transportation Safety Board (TSB) reporting where, the TSB notifies the CER once they are notified, including the OERS submission which come shortly there after.

Overpressures – Operating Beyond Design Limit

Definitions regarding operating pressure in the Event Reporting Guidelines and proposed in Topic Paper G are not aligned, are inconsistent with CSA Z662, and do not affect regulatory reporting. Enbridge suggests only using definitions in CSA Z662 (Design Pressure, Established Operating Pressure, and Maximum Operating Pressure); while considering the addition of a Regulatory Operating Pressure reflecting the contents of regulatory instruments such as leave to open or pressure restriction orders.

With respect to other events requiring notification, Enbridge notes that companies are required to develop, implement, and maintain an integrity management program (IMP). IMPs utilize a hazards and risk-based approach to managing integrity threats to the pipeline, including mechanical damage due to natural hazards or third-party activity, geohazards (slope movements), corrosion, and pipe exposures.

Pipeline exposures and slope movements are managed on a routine basis and are typically risk-ranked low, relative to other pipeline integrity threats, yet nevertheless require reporting under the ERG. Enbridge recommends removal of reporting of pipe exposures and slope movement that are in the tolerance of a company's IMP established criteria or that do not require immediate action. The CER could include the review of these instances as part of the annual integrity information exchanges to understand and evaluate if companies are appropriately managing these exposure and slope movement threats. The CER should also rely on OMM Notifications, which contemplate risk level, made by companies as a means of notification when repairs are required to exposures and slope movements that are of higher risk.

Tariff Limit – Operating beyond design limit reporting

Enbridge recommends removal of the tariff limit exceedance as an example of a reportable event in the Event Reporting Guideline. A tariff limit exceedance may still be within design limits of the pipeline, and as such, no pipeline safety issue or non-compliance with CSA Z662 is triggered. Suggest that only inappropriate product as it relates to CSA Z662 design be included as an event example in the CER Event Reporting Guide.

Subtopic 2: Environmental Effects

The CER is considering a risk matrix or similar decision-making tool located within technical guidance that can assist regulated companies in assessing severity, consequence, likelihood and probability of escalation.

Enbridge Response:

Enbridge requests specific consultation be undertaken to inform development of a risk matrix or decision-making tool to define environmental effects. Having input from multiple stakeholders

based on industry experience along with technical, scientific, and traditional knowledge should be used to define environmental effects.

The following are examples Enbridge provided to the CER in the context of the 2023 Draft review of the Event Reporting Guide and would like to restate.

- A release of sediment by itself does not necessarily cause a significant adverse effect. Suggest rewording guidance example to “a release of sediment that results in a consequence of significant adverse effect (e.g., HADD)”
- For the unintended physical alteration of a fish-bearing watercourse (e.g., subsidence/collapse of the bed or banks, unplanned instream work, or a failed isolation), Suggest adding more consequence in line with a significant adverse effect (e.g., “that results in a HADD or an impediment to navigation.”
- For fish/wildlife mortality, suggest moving away from numbers and suggest giving one example such as “Any mortality of a listed Endangered fish/wildlife species within Schedule 1 of the Canadian Species at Risk Act.” This example is in line with a significant adverse effect.

Subtopic 3: Definition of Incident - Loss of Operational View and Control of a Pipeline

The CER should limit this reporting requirement to cybersecurity events that result in both loss of operations view and loss of operational control of a pipeline.

Subtopic 4: Definition of Incident - Release of Substance Thresholds

The CER is considering the following:

- *lowering the volume threshold for notifying the CER of an LVP release within the definition of incident in the OPR; and*
- *changes to the reporting threshold specified within the definition of incident in the OPR regarding a gas or HVP hydrocarbon release.*

Enbridge Response:

The immediate reportable (3 hours) for an unintended or uncontrolled release of sweet natural gas or HVP hydrocarbons >30,000m3 requires guidance and clarification. Guidance of calculating volume is given later in the guide, however, is provided in the context of 24-hour reporting of the guide. For a 3-hour reporting requirement, the 30,000 m3 threshold should have a release rate associated with it to trigger the 3-hour reporting timeframe.

Enbridge appreciates the allowed use of the most applicable calculation in determining rate of release and total volume.

Enbridge does not support reducing the notification volume threshold for releases on a facility. The volume by itself is not an indication of risk or threat to people, property, or the environment. Companies are required, as per the Remediation Process Guide, to document all releases. The CER should use its compliance verification activities to request this information to understand how companies are tracking, assessing, and learning from non-reportable release events. The focus on a volume threshold should not be the priority, rather focus on a potential consequence

is more important. Releases on a facility range in volumes out of a system. For instance, on a liquids system, whether the volume of $2m^3$ or $20m^3$ is released into secondary containment (tank lot), the consequence to people, property, and the environment and the response effort may be very similar.

Enbridge also suggest that any volume released onto a floating tank roof, should not be considered a release, unless the roof of the tank is compromised in someway (e.g. sunk).

Subtopic 5: Reporting - High Potential Near Misses

The CER is considering a new OPR reporting requirement for companies to notify the CER of any high-potential incident near miss relating to the construction, operation, or abandonment of its pipeline.

Enbridge Response:

The current wording in the OPR already requires companies to have a process for reporting of near misses (OPR Section 6.5.1(r)), including taking corrective and preventative actions. Introducing ad-hoc reporting on near misses will affect companies near miss reporting culture, is administratively burdensome, and will not allow the CER to understand if companies have a robust process required as per Section 6.5.1(r) of the OPR. The CER could review and assess this information when conducting compliance verification activities, rather than introduce extra reporting requirements.

Subtopic 6: Reporting - Information Sharing

The CER is considering implementing processes to assist companies in their learning and continual improvement in this area.

Enbridge Response:

Enbridge supports the CER's initiative of sharing information with industry to assist companies in learning and continual improvement. Currently the CER's publicly available data is very difficult to capture and process the information to allow for review and understanding. For example, the data available on the CER's website for Reports on Compliance and Enforcement could be presented in an exportable data file, such as excel, for companies to download and review. Important fields on the type of compliance verification, scope, discipline/program, regulatory reference, observations, and outcomes (findings, non-compliances, etc.).

Subtopic 7: Reporting - Sites of Historic and Cultural Significance

The CER is considering adding a new reporting requirement in relation to damage to a site of historic or cultural significance, subject to confidentiality agreements signed by companies and Indigenous communities and any applicable provincial or territorial requirements.

Enbridge Response:

Enbridge recommends that the CER provide guidance on how it defines sites of historical and cultural significant and how the CER would manage reporting. Currently this is managed by

each Province, where the CER has no jurisdiction. While the CER may want to understand what processes are in place to protect sites of historic and cultural significance, related oversight and enforcement lies with each Province. The CER also needs to consider confidentiality agreements between all parties (companies, Indigenous communities, Provincial agencies, landowners, and the CER). Enbridge does screen and engage with communities to identify sites of historical and cultural significant prior to commencing work that could have an impact. This is contemplated in Enbridge's Environmental Protection Program.

Enbridge Response to Topic Paper I: Rights and Interests of Indigenous Peoples, Socio-Economic Effects, and Engagement

Enbridge Response:

Subtopic 1: Preventing and Addressing Impacts to the Rights and Interests of Indigenous Peoples

In keeping with its corporate objectives, and commitment to sustainability, Enbridge chooses to conduct business in a socially responsible and ethical manner; protecting the environment and the safety of people; and engaging, learning from, respecting, and supporting the communities and cultures with which we work.

Enbridge's engagement with Indigenous Nations, Tribes, and governments is guided by Enbridge's Indigenous Peoples Policy (IPP) and the commitments made in its enterprise-wide Indigenous Reconciliation Action Plan (IRAP).

Enbridge is deeply committed to advancing reconciliation with Indigenous peoples. Our mutual success depends on the ability to build long-term, respectful, and constructive relationships with Indigenous groups near Enbridge's projects and operations throughout the lifecycle of our activities. To achieve this, Enbridge governs itself by the following IPP principles:

- Respect for Indigenous rights and knowledge
- Promoting equity and inclusion
- Fostering awareness through education

While we have been building relationships with Indigenous groups for many years, Enbridge made a commitment in 2017 to enhance transparency by expanding reporting on the implementation of our Indigenous Peoples Policy and the steps we are taking to integrate Indigenous rights and knowledge into our business across Turtle Island. In June 2018, we began to fulfill that commitment with the release of a discussion paper, Indigenous Rights and Relationships in North American Energy Infrastructure, and have since provided an annual overview of our plans, commitments and outcomes with respect to Indigenous inclusion.

Enbridge's IRAP was originally developed in September 2022, and recently refreshed in 2025, in recognition of the Truth and Reconciliation Commission's Call to Action #92, UNDRIP, and with respect for and acknowledgement of Indigenous rights and title, treaties, and sovereignty across Turtle Island. The 22 commitments set out in the IRAP help to further underpin Enbridge's Indigenous Lifecycle Engagement Framework. Enbridge recognizes that the actions taken to support and advance these commitments must create opportunities – for dialogue, for listening, for knowledge transfer, and for collaboration and partnership with Indigenous groups. The specific goals of engagement for any lifecycle activity are founded on these commitments together with consideration of the scale, scope and potential impact of the activity.

In the spirit of this journey, Enbridge requests that regulated companies should continue to have broad flexibility to pursue reconciliation with Indigenous Peoples as a matter of priority and

sustainability, outside of newly prescribed programs, processes, and requirements. Enbridge interprets the current OPR 6.5 (m) for “external communication of information relating to safety, security and protection of the environment” as the exchange of information with all external stakeholders and suggests that there is opportunity to clarify the guidance and audit protocols to include Indigenous rights and interests.

Should the CER include, add, or change requirements under the OPR, the CER must provide clear guidance on expectations. Furthermore, the proposal of new protection programs warrants additional technical workshops with subject matter experts (regulator, industry and indigenous) to evaluate expectations in terms of practicality and effectiveness. For example, Enbridge is concerned about how regulated companies will be able to effectively identify, monitor and comply with varying “applicable” indigenous laws as well as the extent of the jurisdiction of Indigenous laws (on-reserve vs off reserve) along its linear infrastructure. Indigenous laws, rights, interests, and traditions are not well documented, and sometimes confidential. And at the same time, alternatives should be considered as many regulated companies are already committed to protecting the rights and interests of Indigenous Peoples, managing Socio-Economic Effects, and meaningful engagement as a course of good business conduct.

Currently, all the protection programs in Section 55 of the OPR (Emergency Management, Integrity Management, Safety Management, Security Management, Environmental Protection, and Damage Prevention), where management system processes in Section 6.5.1 are required, have a well understood foundation of legal frameworks and technical standards upon which they are built. Introducing of a new protection program that requires all the management system processes in Section 6.5.1, may not be reasonable or achievable is all cases, nor does it allow the broad flexibility to pursue reconciliation with Indigenous Peoples.

Enbridge supports the participation of Indigenous peoples in regulatory processes and recognizes that there are various ways to enhance Indigenous participation outside of making changes to the OPR. Enbridge recently volunteered for a regulatory pilot activity with the CER to explore, together with an Indigenous community how compliance verification activities could be executed most effectively. The outcomes of this pilot should inform and support the development of clear and transparent compliance verification protocols related to indigenous rights and interests.

As acknowledged in the Canadian Energy Regulator Act, Indigenous knowledge is often considered to be confidential. Should Indigenous knowledge usage requirements be referenced in the OPR, mechanisms should be put in place to ensure that confidentiality can be maintained. This could be an area of complexity (internal to and external to the regulated Company) if the CER introduces reporting requirements for certain events or inclusion of Indigenous knowledge in published emergency response plans.

Subtopic 2: Managing Socio-Economic Effects

Enbridge is very familiar with managing socio-economic effects on a project-by-project basis as a result of specific Environmental and Socio-economic Assessments (ESAs) and corresponding mitigation measures for construction and post-construction activities on new or upgraded

assets. Enbridge is also familiar with developing and implementing protection programs per the OPR requirements. However, it is unclear at this time what the CER's expectations would be for a Socio-Economic Effects Protection Program or what the CER has learned works well during its oversight activities. The proposal of new protection programs warrants additional technical workshops with subject matter experts (regulator, industry and indigenous) to evaluate expectations in terms of practicality and effectiveness. And at the same time, alternatives should be considered as many regulated companies are already committed to managing socio-economic effects as a course of good business practice.

Introducing the management of Socio-Economic affects into the OPR for an operating pipeline does not add value to the protection of people, property, and the environment. Typically, socio-economic affects are considered in project assessments, are considered in operations and maintenance (OMM) activities, and can be objectives in emergency management activities.

Enbridge maintains an enterprise-wide Sustainability Policy through which it is committed to integrating environmental, social and governance (ESG) considerations in all aspects and at all levels of its business. This means operating in a safe, ethical, inclusive, transparent, and socially and environmentally responsible manner, taking a leadership role in the transition to a lower-emission economy, respecting human and Indigenous rights, and meaningfully engaging with and learning from our employees and the communities where we live and work.

Enbridge reports its sustainability performance through annual Sustainability Reports and commits to engaging with its stakeholders on how it can continuously improve its sustainability performance.

Subtopic 3: Engaging with Potentially Affected People and Communities

As reflected in its Sustainability Policy, Enbridge is committed to Community and Indigenous engagement and inclusion. Enbridge engages potentially affected communities, Indigenous nations and groups, and landowners early to assess and develop measures to avoid and/or mitigate potentially adverse social and environmental impacts of our projects and operations. Enbridge works with local and Indigenous communities to generate shared social and economic benefits through inclusion in our projects and operations, respecting their interests and priorities. Enbridge continually incorporates community and Indigenous perspectives to enhance our engagement approach and practices.

Enbridge interprets the current OPR 6.5.1(m) for "external communication of information relating to safety, security and protection of the environment" as the exchange of information with all external stakeholders and suggests that there is opportunity to clarify the guidance and audit protocols to include Indigenous rights and interests. Stakeholder Engagement is a mandatory element of Enbridge's Management System Framework in part designed to comply with OPR 6.5.1(m).

Overall, Enbridge is committed to advancing reconciliation with Indigenous Peoples. Enbridge is also committed to integrating environmental, social and governance (ESG) considerations in all aspects and at all levels of our business. These commitments exist and have evolved without explicit regulatory requirements or guidance. Enbridge encourages the CER to exercise a

balanced approach to the OPR and FM Review, in respect of its four strategic priorities (Trust and Confidence, Reconciliation and Implementing the UN Declaration, Competitiveness and Regulatory Excellence, and Preparing for the Energy Future) such that existing guidance, for existing management system and protection program requirements, is refined for inclusion of the objectives, related to Rights and Interests of Indigenous Peoples, Socio-Economic Effects, and Engagement, instead of net new protection programs or requirements.

Enbridge Response to Topic Paper J: Safety

Subtopic 1: Process Safety Management

Help ensure that companies identify process safety hazards, then evaluate and manage related risks to prevent incidents such as fires, explosions, and unintended loss of containment events and propose the following:

- *adding clarification to OPR section 47 requiring a company to have a Safety Management Program that anticipates, prevents, manages, and mitigates potentially dangerous conditions and exposure to those conditions during all activities relating to construction, operation, maintenance, abandonment, and emergency situations; new language would specify that this program must incorporate both operational safety and process safety management;*
- *adding requirements related to detection and warning systems for hazardous atmospheres;*
- *adding clarification to OPR section 36(b) to specify that corrective actions must be taken to address equipment and instrument testing results that fall outside of established acceptance criteria; and*
- *developing technical guidance to articulate CER expectations and industry best practices related to process safety management.*

Enbridge Response:

***J.1** What is your feedback on the proposed approach?*

The current OPR along with applicable codes and standards already set requirements and expectations to address the management of all hazards and risks. Enbridge suggests the CER define process safety management (PSM) using applicable existing codes and standards and provide guidance on what companies need to demonstrate. Enbridge urges the CER not to be prescriptive but rather allow companies to adapt their own management systems, tools, and methods, if necessary, to address expectations of process safety management.

The CER has also used the term “operational safety” in this process safety management subtopic and so is a term that should be defined in addition to process safety.

Applicable regulations, codes and standards already outline the need to address deficiencies and develop corrective actions so further reference in OPR s.36(b) is unnecessary.

***J.2** What guidance is needed to support the incorporation of process safety management within the Safety Management Program? Please be as detailed as possible in terms of the nature and content of required guidance (i.e., specific topics, processes, procedures, or other practical tools that might be useful).*

Development of additional technical guidance to articulate CER expectations and industry best practices related to process safety management would be valuable. Guidance with explicit references related to the application of current management system requirements to operational and process safety hazards could be helpful to drive understanding.

Subtopic 2: Safety Plans for Construction, Operations and Maintenance, and Abandonment Activities

Help ensure that companies:

- *align safety documentation with the management system and Safety Management Program;*
- *develop robust safety documentation relevant to specific activity types (i.e., construction, operations and maintenance, and abandonment); and*
- *make safety documentation easier to access, understand, and use*

The CER is considering the following:

- *providing a definition of "construction" in the Interpretation section of the OPR;*
- *replacing existing OPR requirements for construction and maintenance safety manuals with requirements for safety plans for construction, operations and maintenance, and abandonment activities (as part of the Safety Management Program); these plans would describe the procedures, practices, resources, sequence of key safety-related activities and monitoring measures necessary to manage related hazards and to ensure the safety of the work or activity to be undertaken; and*
- *developing technical guidance to further articulate CER expectations related to safety plan content across each activity type.*

Enbridge Response:

***J.3** What is your feedback on the proposed approach?*

Distinguishing between Operations and Maintenance (safety manuals) and construction (safety plans) may create clarity, but clear articulation of the expectations when hazards exist across all three activities would be required. The objective of requiring companies to have robust safety documentation by specific activities is valuable as they can be used in all lifecycles of the asset and could make up a "safety plan" for a project with multiple activities.

Companies should be left to decide how safety documentation is stored and organized to ensure it is easy to access, understand, and use.

***J.4** What guidance is needed to support safety plan provisions in the OPR? Please be as detailed as possible in terms of the nature and content of required guidance (i.e., specific topics, processes, procedures, or other practical tools that might be useful).*

Construction safety plans should be scalable and flexible to the size and scope of the work undertaken.

Guidance regarding application of current management system requirements to operational and process safety hazards could be helpful to drive common understanding.

Enbridge Response to CER's Phase 1 OPR Review Discussion Paper

Enbridge Indigenous Peoples Policy

Enbridge 2025 Indigenous Reconciliation Action Plan

Enbridge Discussion Paper: Indigenous Rights and Relationships in North American Energy Infrastructure, June 2018

Enbridge Sustainability Policy