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VIA EMAIL:

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**Re: Review and Comments on the Canada Energy Regulator’s (“CER”) Onshore Pipeline Regulations (“OPR”) Discussion Paper**

Enbridge Inc. (“Enbridge”) would like to thank the CER for the opportunity to review and comment on the CER Onshore Pipeline Regulations Review Discussion Paper dated January 12, 2022 (“Discussion Paper”)<sup>1</sup>. Enbridge provides the comments and feedback below, inclusive of input from numerous technical experts representing pipeline entities owned in whole or in part by Enbridge.

Enbridge considers that the CER and industry have successfully implemented the current OPR for over twenty years. Enbridge has invested substantial resources to establish, implement, maintain, and continuously improve management systems and protection programs to comply with the current OPR requirements. Any change to OPR requirements has the potential to significantly impact mature management systems. Early engagement and dialogue with industry regarding specific proposed changes (e.g., prior to drafting new regulation or publishing a regulatory proposal) is recommended to avoid process delays and undue burden to operating companies.

As part of Enbridge’s comprehensive review and assessment of the Discussion Paper, technical experts reviewed specific sections of the OPR in detail. As a next step in the OPR Review process, Enbridge respectfully requests the opportunity to discuss with CER staff some specific feedback on sections and clauses of the OPR where industry experts believe changes might be made to improve the effectiveness of the regulation.

Broadly, Enbridge recommends the CER consider the following guiding principles in relation to any changes proposed to the OPR and its implementation:

**Goal-oriented**

In line with how the OPR is currently written, changes to the OPR should be goal-oriented, allowing for companies to be creative, efficient, and flexible in their implementation of the requirements contained in the OPR.

**Scalable**

Changes to the OPR should be scalable and fit-for-purpose according to scope of activity and potential for impact.

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<sup>1</sup> <https://www.cer-rec.gc.ca/en/about/acts-regulations/cer-act-regulations-guidance-notes-related-documents/onshore-pipeline/onshore-pipeline-regulations-review/discussion-paper/discussion-paper.pdf>

## **Explicit**

Changes to the OPR must be done using specific language and controlled vocabulary. Changes should be accompanied by clear guidance and commentary regarding expectations, especially for new requirements within a management system.

## **Transparent**

Transparency in process generally increases Canada's global competitiveness by directly improving predictability of CER expectations and timeframes. Specific to the CER OPR Review process, having transparency to proposed changes early in the legislative drafting process and opportunities for dialogue between the CER and regulated companies will mitigate the potential for unintended consequences and unreasonable impacts to operators.

## **Time-Sensitive**

Accountability for timely decisions, responses, and feedback will enhance public and industry confidence in, and the global reputation of, Canada's energy regulatory system. Timely feedback from regulators enables industry to proactively adapt according to regulator expectations and guidance. Timely decisions and reasonable response times enable industry to plan and execute work with confidence and stay competitive.

## **Discussion Paper Section 1: OPR – Lessons Learned**

*Question 1: What's working well in relation to the OPR, and its implementation and what could be improved?*

Many things are working well in relation to the OPR, of note, performance-based and goal-oriented requirements, and the incorporation by reference of CSA standards are working well and should be maintained. Performance-based and goal-oriented regulations provide the flexibility and scalability required to customize and meet unique operational requirements and business needs through management systems and assess the value of activities towards safe and reliable performance by focusing on continual improvement. Reference to CSA standards in the OPR allows for industry benchmarks and timely, appropriate revisions to technical requirements reflecting new measures and innovation.

In terms of potential improvements to the OPR and its implementation, Enbridge offers the following opportunities for the CER's consideration in addition to the guiding principles outlined above:

- enhanced use of explicit and specific language so that the principles of statutory interpretation, when applied, will reasonably lead the reader to an interpretation of the OPR that is consistent with the CER's interpretation.
- revising the 3-year maximum interval between compliance and program audits to allow for time to adequately assess implementation of previous audit action plans (OPR s.55(1)). For example, a 3-year interval for the first audit followed by a 6-year internal audit cycle thereafter could be more effective for management systems.
- flexibility and leniency when regulated companies are managing compliance verification activities during external crisis events such as pandemics, extreme flooding, forest fires, cybersecurity event, etc.
- implementation of a mechanism for all stakeholders to seek OPR interpretation or process guidance, with responses to frequently asked questions made available to all stakeholders.
- greater up-front transparency on the scope of regulator activities (e.g., "Control Room Management", "Contractor Oversight" and other CER audit activities beyond the traditional protection programs).

- greater transparency into the CER’s risk-based assessment and prioritization process informing CER compliance program activities.
- increased notice of planned compliance verification activities (“CVAs”) to allow regulated companies to allocate appropriate resources without impact to safe and reliable operations, including agreement and flexibility on reasonable timelines for responses and submissions, when appropriate. Note that such transparency would contribute to a more accurate evaluation of need for human resources per OPR s.6.4(c).
- increased regulator accountability and responsiveness to reported events/conditions and documented closure of activities.
- re- evaluation of objectives and information requirements at each event reporting stage, particularly for immediately reportable events (e.g., the details required in initial preliminary reports are often unknown or subject to inaccuracies).

## **Discussion Paper Section 2: Reconciliation with Indigenous Peoples**

*Question 2: How can the OPR contribute to the advancement of Reconciliation with Indigenous peoples?*

Enbridge agrees that advancing reconciliation is a priority and is eager to partner with the CER in that process. Enbridge supports enhanced involvement of Indigenous peoples and Indigenous perspectives in the CER’s operations, procedures, and decisions. As identified by the CER<sup>2</sup>, shared cultural awareness is key to establishing strong and trusting relationships and it is through these relationships that the CER can co-develop approaches, such as the Indigenous Monitoring Program, that work for everyone, including industry. In that regard, Enbridge recommends the CER continue to enable reasonable decision-making timelines and process certainty by continuing to focus on adapting policy and core operational activities involving Indigenous peoples and their lands and resources without changing the OPR. In the interest of regulatory certainty, any proposed changes to the OPR with the goal of advancing reconciliation should facilitate integration of Indigenous perspectives and expertise into the CER’s operations and decision-making structure, as opposed to creating separate project and/or operations-focused advisory committees.

Through its work with Indigenous peoples, Enbridge understands there are many ways to achieve reconciliation. A prescriptive approach (i.e. prescribing any method, approach, measurement, or mechanism) could constrain opportunities for advancement and have unintended consequences. In some circumstances, regulator involvement in interactions between Indigenous groups and industry can influence the types of disclosures and exchanges of information that occur between parties. Regulated companies should be given broad flexibility to pursue reconciliation with Indigenous Peoples as a matter of priority.

*Question 3: How can the OPR contribute to the protection of heritage resources on a pipeline right-of-way during construction, and operations and maintenance activities?*

The CER should not introduce new regulatory oversight to the protection of heritage resources as these resources are regulated at the provincial/territorial level.

Should the CER consider updating the OPR to include specific language around the protection of heritage resources, the CER should consult and coordinate with the applicable provincial/territorial authorities and ensure alignment on the scope of CER jurisdiction. Guidance should also be developed on what to do if implementation of any new CER regulation conflicts with provincial oversight. In addition, the CER should provide guidance on how to resolve potential conflicts that may arise between private landowners whose lands may be impacted by heritage resources and Indigenous groups. If the CER concludes that heritage resource protection provisions should be added to the OPR, Enbridge suggests that any new requirements and related guidance include:

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- the CER's timelines for reviewing and providing decisions,
- the process for reviewing and providing decisions, and
- criteria that will allow regulated companies to appropriately scale implementation of any new requirements based on the type of activity (e.g., low vs. high impact), status of the pipeline (e.g., new construction vs. operating), scope of the work (e.g., greenfield vs. existing disturbed area) and potential for impact (e.g., ground disturbance vs. aboveground construction).

*Question 4: How can the OPR contribute to the protection of traditional land and resource use, and sites of significance for Indigenous peoples on a pipeline right-of-way, during construction, and operations and maintenance activities?*

Companies should be encouraged to work with potentially affected Indigenous groups to identify and establish mitigation measures for identified sites of significance throughout the asset lifecycle.

In the case of new construction, these concerns/issues should be identified during the review and approval process and mitigation measures should be applied as required to address those inputs ahead of final design and approval.

Where a pipeline is already operating, the requirements for surveys and mitigation measures should be scaled appropriately to reflect the reduced potential for impact.

Should the CER include a new requirement under the OPR, the CER must provide clear guidance on expectations surrounding how to identify traditional land and resource use and sites of significance for Indigenous peoples.

*Question 5: How can the use of Indigenous knowledge be addressed in the OPR?*

Where and when available to Enbridge, Indigenous knowledge is incorporated into Enbridge projects and operations. 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.

*Question 6: How can the OPR address the participation of Indigenous peoples in pipeline oversight?*

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.

### **Discussion Paper Section 3: Engagement and Inclusive Participation**

*Question 7: How can the OPR support collaborative interaction between companies and those who live and work near pipelines?*

Enbridge has a robust stakeholder engagement process that is proactive and focusses on ongoing, regular contact with all stakeholder groups, including those who live and work near pipelines. In some circumstances, regulator involvement in interactions between stakeholders and industry can influence the types of disclosures and exchanges of information that occur between parties. Regulated companies require broad flexibility to pursue collaborative interaction without the CER as a participant, regulator, or intervenor.

The CER could take a more active role in educating the public and newly regulated companies on the contents of the OPR. It is often industry explaining the content of the OPR, as well as other regulations such as the Damage Prevention Regulations ("DPR"), to those who live and work near pipelines. In some instances, when regulated companies conduct outreach that includes information on the contents of the

OPR and DPR, the information is not well received. The information may be better received and perceived as more credible coming directly from the regulator as opposed to from a regulated company.

*Question 8: How could communication and engagement requirements in the OPR be improved?*

Enbridge believes that the CER can improve communication and engagement factors without changes to the OPR. Some examples include leveraging compliance verification observations, reported data trends and analysis to share lessons learned with industry stakeholders, and supporting regulated companies to share information and lessons learned outside of verification activities. For example, the CER-hosted Damage Prevention Workshops which took place in November 2021 and May 2022 were excellent. Such workshops can be attended by industry, landowners, Indigenous stakeholders, the CER and the public.

*Question 9: How could the CER improve transparency through the OPR?*

Industry has shared significant amounts of information with the CER over many years. Sharing this information has involved (and continues to involve) significant investment of time and resources, sometimes with limited appreciable value (e.g. Pipeline Performance Measures). For all information requested from industry, the CER should be transparent in terms of why the information is being sought and what it's being used for, or in other words, provide a clear justification and connection as to how such information will provide value and be of benefit to Canadians. Also, information gathered from regulated companies and shared by the CER does have the potential to impact competitiveness and compromise infrastructure security, and appropriate care must be taken to avoid unintended consequences of such disclosures.

*Question 10: Gender and other intersecting identity factors may influence how people experience policies and initiatives. What should the CER consider with respect to: a. those people implementing the OPR; or b. those people who are impacted by the operational activities addressed in the OPR?*

- a. Enbridge has proactively implemented training as well as goals, programs, and policies to enhance inclusion, diversity, equity, and accessibility and there already exists a sufficient body of legislation to protect workers with various identity factors from discrimination and ensure equal access. Requiring the use of Gender-based Analysis Plus (“GBA+”) could be duplicative of existing training, goals, programs, and policies and may not result in additional inclusion.
- b. Enbridge believes it is in industries’ best interest to broadly and equitably engage its stakeholders and has developed many policies and programs in that regard. The CER should avoid prescribing any particular methodology for ensuring inclusive engagement and participation by industry that may have unintended consequences on existing efforts. Any new requirements must be scalable and goal oriented. Further, GBA+ analysis often requires detailed data of a sensitive nature that is not widely available for many communities and locations and is not readily shared by individuals. Any new requirements related to the use of GBA+ must account for these issues and provide significant guidance on the use of GBA+.

#### **Discussion Paper Section 4: Global Competitiveness**

*Question 11: How can the OPR support a predictable and timely regulatory system that contributes to Canada’s global competitiveness?*

The CER could consider comparing the OPR requirements and processes to equivalent requirements and processes in provincial jurisdictions and other countries to assess how changes to the OPR may impact Canada’s global competitiveness.

To the extent practicable, processes and timelines followed by the CER in relation to the execution and implementation of requirements in legislation (e.g., applications, notifications, etc.) and any updates to information in supporting guidance documents should be transparent. Transparency in process will increase Canada's global competitiveness by directly contributing to predictability of expected timeframes and outcomes. For example, while the CER has service standards for routine infrastructure applications, the calculation of service standards begins on the day the CER determines an application is complete and there is no transparent process or service standard applicable related to that completeness decision. Transparent service standards and processes for post-approval decisions would also improve overall predictability and competitiveness (e.g., for condition approvals and leave to open decisions). Understanding the timing of an application in all its stages is key to preparing project schedules and helps industry determine when facilities might be able to go into service to meet customer requests.

Similarly, the CER could consider improving the timeliness of its review and response to events that industry is required to report (e.g., incidents, unauthorized activities, etc.). Reporting timelines are clear for industry, but there does not appear to be an established timeframe for the CER to complete its oversight of these events. Timely and effective response to these events by the CER will enhance public and industry confidence in, and the global reputation of, Canada's regulatory system. Furthermore, there may be an opportunity for the CER to provide awareness materials that will foster greater understanding and transparency in the processes and timelines that it follows in responding to these events.

Finally, the CER could consider whether the incident reporting process can be streamlined such that a preliminary report is limited to essential information that is reasonably expected to be known or available in the very early stages of an incident. Typically, when an incident occurs, not all information currently required in a preliminary report is known or can be confirmed. Streamlining the incident reporting process will reduce the initial information gathering burden; this could result in more timely reporting of incidents, more meaningful follow-up actions as information becomes available, and a decreased likelihood of providing incomplete or inaccurate information that requires correction later. At the same time, streamlined reporting and oversight would support companies to focus resources on the priority of a safe emergency response.

*Question 12: How can the OPR support innovation, and the development and use of new technologies or best practices?*

The CER could consider incorporating more flexibility into the regulatory framework related to the use of new technologies and materials. For example, Section 4 of the OPR could include an option for a company to apply to use a technology or material that is not yet approved by a standard that is incorporated by reference in the OPR (e.g., rather than having to wait up to four years to see whether the next edition of the standard authorizes the use of the technology or material) or to apply to follow a standard that is not incorporated by reference in the OPR. To promote further flexibility and efficient timeliness in this regard, the CER could also consider developing risk-based criteria, whereby a company could provide notification of its intent to use the technology or material rather than apply for authorization.

As suggested in the response to Question 1, the CER could consider providing a formal mechanism for asking questions about alternative technology implementation, requesting interpretations, determining whether a process is compliant, etc. This could provide industry with the confidence needed to innovate and plan with certainty rather than waiting for a post-application decision or a finding in a compliance verification activity and adjusting course at that time.

Finally, the performance-based approach within the OPR affords flexibility and fosters innovation by allowing regulated companies to determine how to meet desired outcomes and drive continuous improvement. The CER is well-positioned to see what practices among regulated companies are particularly effective. Accordingly, the CER could promote increased dialogue and information sharing regarding best practices, innovations, planned changes and industry trends.

*Question 13: What company-specific or industry-wide performance metrics could the CER consider to support enhanced oversight and transparency for CER-regulated facilities?*

Enbridge does not currently have suggestions regarding company-specific or industry-wide performance metrics beyond the feedback provided to the CER on January 18, 2022, regarding proposed changes to the CER Pipeline Performance Measures. Generally, Enbridge strongly supports alignment of any CER metrics with industry-wide performance metrics utilized by operators and industry associations. Enbridge encourages the CER to consider this alignment while also ensuring any proposed metrics are compatible with the goal-oriented principles of performance-based regulations.

The reasons for collecting performance data from industry for any metric should be made clear and each metric developed for a specific purpose (i.e., that the results of the metric will be used to support decision-making with respect to policy, legislation, or guidelines, etc.). In addition, each metric should be clearly defined and fully explained (including the methodology for analyzing the data, assessing the applicability of the data to different commodities, and the expertise and qualifications of those who are deriving conclusions from the data) to establish credibility of the metric and to minimize the chance for misinterpretation and misuse. Furthermore, a consistent, transparent, and timely publication schedule would increase utility and value for industry.

*Question 14: Are there opportunities within the OPR for data and digital innovation that could be used by the CER and by companies regulated by the CER?*

The OPR could more explicitly state (with supporting guidance as required) that manuals and records in electronic form are acceptable alternatives to hardcopy versions (e.g., Construction Safety Manual, Maintenance Safety Manual, Operations and Maintenance Manuals, Emergency Response Plans, etc.). In addition, the OPR could, where applicable, promote the use of technological solutions to meet data reporting and transmission requirements (e.g., audio-video feeds from pump stations, augmented-reality overlays, incident reporting, etc.).

All information and data about a regulated company should be verified by the company prior to publication by the CER. The CER does allow industry the opportunity to verify CVA information before it is published; however, there have been examples of non-CVA information that has been published that required corrections.

More information sharing, and in a timely manner, from the CER (workshops, conferences, real-time Power BI snapshots of industry trends in reportable incidents and unauthorized activities) would help companies make informed decisions to continuously improve programs. The CER has a wealth of data that could benefit industry and is encouraged to share this data regularly and in a user-friendly format (e.g., the CER's published pipeline incident data is in a hard-to-use Excel spreadsheet and has not been updated since June 2021). The recent Damage Prevention Workshops (November 2021 and May 2022) were excellent. The OPR (or supporting guidance) could include a section that obligates or encourages the CER to share data and facilitate information exchange with industry.

Finally, the CER could consider improvements to the Operations Regulatory Compliance Application ("ORCA") to make it more user-friendly to navigate, improve document sharing and clarify its relationship with other CER and government systems (e.g., REGDOCS, Open Canada, etc.). The OPR (or supporting guidance) could have a section describing the tools that the CER uses to collect information, how it protects the security and confidentiality of different types of information and data (e.g., GIS data, etc.) and how it uses and discloses information.

*Question 15: How can the OPR be improved to address changing pipeline use and pipeline status?*

The CER could consider assessing and approving new facility/pipeline applications for multiple service and/or flow direction and/or providing other efficient pathways for conversion of pipe use other than

abandonment. This could allow companies to respond quickly and competitively to customer needs or societal demand. With a flexible approval already in place, changes to service could be addressed via a notification to the regulator or some other streamlined process.

The CER could also consider alternatives to requiring applications for activities such as deactivations and reactivations. For example, deactivations and reactivations could be assessed as operations and maintenance activities such that a notification could be provided instead of applying for a deactivation and then having to apply for reactivation, if required. Alternatively, a streamlining or exemption order could be issued for these activities. In addition, the CER is encouraged to provide greater clarity in the OPR (or supporting guidance) regarding the distinction between abandonment and decommissioning.

A section in the OPR dealing with *change of pipeline service or status* might be warranted to address the above considerations. In addition, as pipeline use changes over time, the definitions in the OPR (e.g., “incident”, etc.) may need to be refined to reflect and include new substances (e.g., hydrogen, etc.) that could be transported.

## **Discussion Paper Section 5: Safety and Environmental Protection**

*Question 16: What further clarification, in either the OPR (e.g. structure or content), or in guidance, would support company interpretation and implementation of management system requirements?*

Given Enbridge’s international footprint, its management system framework is based on the management system requirements found in the CER’s OPR, the American Petroleum Institute (“API”)’s Recommended Practice 1173 Pipeline Safety Management Systems, the Occupational Safety & Health Administration (“OHS”) 29 Code of Federal Regulations Part 1910, and Canada Standards Association (“CSA”) Z662 – Oil and Gas Pipeline Systems (“CSA Z662”), among other requirements.

The OPR and associated guidance document are prescriptive enough to understand what is required and allow regulated companies flexibility to manage requirements based on the needs of the organization. As mentioned above, Enbridge’s technical experts reviewed some sections of the OPR in detail and we look forward to an opportunity to discuss our feedback further and explore with CER staff where changes might be made to improve the effectiveness of the management system requirements. Some suggested opportunities for improvement include, but are not limited to:

- Organizing the OPR to improve linkages between the regulations and asset lifecycle phases.
- More precise and consistent use of language and controlled vocabulary (e.g., definition of terms such as explicit, comprehensive, proactive, etc.).
- Development of CER audit protocols that are predominantly, if not exclusively, focused on the technical subject matter of the audit to provide clearer expectations for companies and support consistent application of audit protocols by the CER.
- Supplement existing guidance with practical examples across the pipeline lifecycle illustrating common problems and how they can be addressed by each management system requirement. This could add clarity and help reduce differences in interpretation and application of management system requirements by both companies and the CER.

*Question 17: How should information about human and organizational factors, including how they can be integrated into a company’s management system, for both employees and contractors, be provided in the OPR, and/or described in related guidance?*

Enbridge has created human factors training to equip all members of the Enbridge team with the tools and knowledge to recognize and mitigate the impact of human factors in our safety performance. Enbridge acknowledges that strengthening our understanding of human factors, at the same time as we build our systems and culture to be more resilient and reliable, will improve our safety performance.



Any requirements for human factors management should be incorporated under Section 6.5 of the OPR to provide appropriate flexibility for each operator to develop such controls for their unique operational needs. A definition for “human factors” could also be added to the OPR.

A requirement to develop and maintain a robust culture of safety across regulated companies, for both employees and contractors, should not be included in the OPR, as Enbridge expects it would be challenging to audit safety culture.

*Question 18: How can the OPR improve the connection between company safety manuals and the overarching Safety Management Program, for both employees and contractors?*

The OPR’s management system requirements require companies to contemplate all conditions that may affect safety during company activities throughout the asset lifecycle.

Enbridge suggests that the level of detail within the OPR is sufficient; however, there may be opportunity for connection between a company’s Safety Manual and the company’s Operation and Maintenance Manuals (“OMMs”). For example, the OPR has requirements for a Construction Safety Manual (s.20(1)) and a Maintenance Safety Manual (s.31(1)) as well as O&M Manuals (s.27) and there could be more explicit flexibility to integrate content across these manuals.

*Question 19: How can respect and personal workplace safety be assured at CER regulated sites?*

No further requirements or guidance are needed in the OPR. Company policies and processes must meet the requirements and intent of legislation and regulations for workplace safety and for safety matters related to company activities. Through Enbridge’s Respectful Workplace, Harassment, Violence Policy, Enbridge is committed to preventing discrimination, violence, and harassment in the workplace, and to promote equal opportunities and an environment in which all individuals are treated fairly and with respect. Every employee is entitled to a workplace free of harassment, discrimination, or violence.

*Question 20: How should the CER be more explicit about requirements for contractor management?*

The CER could consider adding requirements related to “contractor management” to the OPR, or at the very least, guidance related to this activity could be added to the OPR Guidance Notes. Any supporting guidance should clarify what the CER considers is required to provide effective management or oversight of contractors, including references to applicable management system processes.

The CER is encouraged to be explicit and specific in the language that is used when intending that a requirement apply to contractors so that it will reasonably lead the reader to an interpretation of the OPR that is consistent with the CER’s interpretation. For example, certain management system requirements in the OPR explicitly reference “persons working with or on behalf of the company”, and this phrase is reasonably interpreted to refer to contractors. However, in recent contractor oversight audits, the CER interpreted other, additional management system requirements to also apply to contractors even in the absence of a similar reference to “persons working with or on behalf of the company”. If certain provisions are intended to apply to “persons working with or on behalf of the company”, the CER should ensure that language to this effect is used in each such provision.

Furthermore, the CER could consider adding a definition of “contractor management” or “contractor oversight” (or simply “oversight” or “supervision”) to the OPR or to the OPR Guidance Notes.

*Question 21: How should the OPR include more explicit requirements for process safety?*

The current level of detail related to process safety requirements within the OPR is sufficient. Process safety is intrinsic in the OPR and CSA Z662. Enbridge’s management system structure is designed to address all dimensions of safety and reliability; risk management requirements and process safety concepts are built into its structure.

It is important that the OPR leverage existing management system requirements rather than introducing new or conflicting process safety requirements. Focus on compliance with explicit requirements has the potential to impede an operator's ability to deliver on fit for purpose process safety. Any technical gaps are best addressed through CSA Z662. Any requirements for process safety management should provide appropriate flexibility for each operator to implement requirements according to the unique needs of its operation. A definition for "process safety management" could be added to the OPR.

*Question 22: How can the OPR drive further improvement to the environmental performance of regulated companies?*

The current level of detail related to environmental performance requirements within the OPR is sufficient. The OPR already requires a company to have an Environmental Protection Program that anticipates, prevents, manages, and mitigates any conditions that could adversely affect the environment. Safety and operational reliability are a priority for Enbridge; as such, Enbridge actively reviews the environmental performance of its systems.

*Question 23: How can the connection between the Environmental Protection Plan, specific to an individual pipeline, and the company's Environmental Protection Program, designed for a company's pipeline system, be improved?*

Enbridge develops and executes an Environmental Protection Plan for each of its CER regulated pipeline construction projects; specific to the project and developed to ensure compliance with Enbridge's broader Environmental Protection Program.

The CER should consider that it may not be reasonable for the Environmental Protection Plan to apply to the full lifecycle of the project. Each company may have hundreds of Environmental Protection Plans dating back decades. This would become very difficult to manage both for the operator and for the CER and would make it impossible to develop and maintain a single, coherent, innovative, and lasting Environment Program capable of providing clear direction to an operator for all their OPR regulated assets.

Enbridge is of the opinion that the Environmental Protection Program is better suited to address how environmental protection will be carried out during operations and maintenance activities for all phases following construction. The CER could consider a requirement, in the OPR or guidance in the OPR Guidance Notes, that project-specific Environmental Protection Plans be developed consistent with an operator's Environmental Protection Program and the project's design must consider its full lifecycle to support long-term compliance with an operator's Environmental Protection Program.

*Question 24: How can contaminated site management requirements be further clarified, in the OPR or in guidance?*

The CER should provide clarity in the guidelines for the management of contaminated sites in relation to federally regulated assets. While the CER acknowledges they are the lifecycle regulator and manage lands under their jurisdiction (Section 3 of the Remediation Process Guide), the CER also notes that other regulators and authorities must be notified in accordance with applicable laws, and that other regulators may need to be involved depending on local, provincial, or territorial laws and policies. While Enbridge adheres to all applicable laws, overlapping requirements and procedures surrounding the remediation of contaminated sites can cause confusion. Guidance concerning the CER's expectations would benefit regulated companies and assist in the engagement with other regulators.

*Question 25: Are there any matters related to the Emergency Management Program in the OPR that require clarification? If so, what are they? Are there any matters for which further guidance is required?*

Enbridge considers the current level of detail related to emergency management requirements within the OPR to be sufficient; however, offers the following opportunities for improvement.

Enbridge recommends that the CER consider changing the Full-Scale Exercise (“FSE”) requirement from once every three years, to once within the triennial cycle allowing for greater operational flexibility. The CER should also consider a provision allowing that companies have met the requirement for completion of a FSE if an event falls within the same triennial cycle.

The CER could reconsider the appropriateness of requiring companies to post Emergency Response Plans (“ERP(s)”), which are prepared for the company and responding agencies, and consider whether there are more suitable mechanisms for sharing a subset of this information with Canadians. Publishing redacted ERPs online does not inform Canadians particularly well about how they are to respond to or identify an emergency situation. The requirement to inform all individuals who may be associated with an emergency response is already addressed through Sections 34 and 35 of the OPR generally, with specific materials created to be easily understood and processed by the public. This information may be more appropriate and useful for public consumption than a (redacted) ERP or general information describing the Emergency Management Program.

*Question 26: How could the requirement for a Quality Assurance Program be improved or clarified in the OPR?*

Enbridge is of the opinion that the current level of detail related to quality assurance requirements within the OPR is sufficient. While further details about Quality Assurance may be warranted and beneficial to industry, this is better addressed by an industry standard (such as CSA Z662) or related interim publications.

The CER could consider the addition of a definition for “quality assurance” and clarification of the term quality assurance as used in various sections of the OPR.

*Question 27: How can the OPR incorporate the key issues identified in the Safety Advisory regarding the strength of steel and the relative strength of the weld area?*

With the recognition of Safety Advisory 2020-01 and new requirements for qualification of welding procedures for high strength pipe materials proposed for inclusion in CSA Z662-23, related issues regarding strength of steel and the relative strength of the weld area do not need to be incorporated into the OPR. It is Enbridge’s opinion that technical requirements are most effectively addressed through industry standards (such as CSA standards).

## **Discussion Paper Section 6: Implementation Objectives**

*Question 28: What are your recommendations for compliance promotion at the CER?*

Enbridge provides the following recommendations to enhance compliance promotion at the CER:

- Continued focus on education by hosting/offering awareness or training sessions (web-based or webinars) open to all Canadians.
- Increased consultation, collaboration, and conversation with subject matter experts of regulated companies and other stakeholders on what is working well and what is not working well.
- Increased focus on providing clarity and commentary on regulation sections/clauses where there is trending misalignment in interpretation between the CER and regulated companies, as discovered during CVAs and audits or through other developed industry feedback mechanisms.
- Implementation of a forum or mechanism for all stakeholders to seek interpretation or process guidance and make responses to frequently asked questions available to all stakeholders.

- Leverage CVA observations, reported data trends and analysis to share lessons learned with industry stakeholders in an informal, accessible, and timely manner so they can be used as safety moments, learning events or alerts.
- Establish a mechanism for regulated companies to provide program updates or company awareness to CER staff. For example, it may be valuable for companies to present company information (e.g., organization and management system structures) that can orient CER staff in a neutral, non-urgent setting and provide them with a foundational understanding of an organization ahead of conducting CVAs.
- Increased compliance promotion, engagement, and enforcement (where applicable) with third parties (e.g., public, contractors) as critical compliance partners in the spirit of CER regulations (e.g., OPR, DPR-A, etc.).

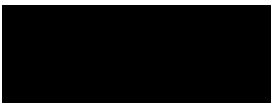
*Question 29: How do you want to be engaged by the CER in the development of technical guidance?*

Enbridge looks forward to being engaged by the CER for collaborative development of technical guidance and encourages the CER to engage regulated companies early and with an approach that recognizes company planning cycles and allows for committed allocation of technical resources (e.g., advise what the focus areas will be a year ahead and provide schedules and estimates of resource time required). The CER could seek input from regulated companies on priority topics for development of technical guidance and host workshops or technical committees to consider input from stakeholders on topics that are not sufficiently covered in the CSA standards and publications. As a participant, it is beneficial to have line of sight to the views and questions of other participants as well as opportunities to support or otherwise respond to those views. Such forums create better conditions for dialogue promoting advancement and innovation.

Enbridge thanks the CER for this opportunity to provide input into the first phase of the CER's OPR Review engagement process. We look forward to the CER's publication of a 'What We Heard' report and gaining a better understanding of the views and interests of other participants. Enbridge welcomes any opportunity to answer questions, provide clarification, or validate any inferences or conclusions drawn by the CER from the above submission. Respectfully, Enbridge believes that collaborative discussions and dialogue between the CER and regulated companies would be a productive addition to the review process, for example, as outlined above, Enbridge would appreciate an opportunity to discuss with CER staff some specific feedback on sections and clauses of the OPR where technical experts feel changes can be made to improve the effectiveness of the regulation.

For any clarifications, further discussion, and/or collaborative next steps, please contact the undersigned at the contact information provided, or Vanessa Cozine, Regulatory & Compliance Manager, at (306) 807-6382 or the Enbridge Regulatory Affairs inbox at [Enbridge.Notifications@enbridge.com](mailto:Enbridge.Notifications@enbridge.com).

Sincerely,



Director, Regulatory Affairs  
Enbridge