

June 27, 2019

City of Toronto
Planning and Housing Committee
10th Floor, West Tower
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Nancy Martin, Administrator, Planning and Housing Committee

RE: City Initiated Request to Amend the Official Plan and Zoning By-law
Application No.: 17 270684 SPS 00 OZ

Dear Ms. Martin:

Thank you for providing Trans- Northern Pipelines Inc. (TNPI) with notice of the above-mentioned City initiated amendments. TNPI operates pipelines throughout Ontario and Quebec which includes, two pipelines in the City of Toronto.

While TNPI has no objection to the amendments, it would be our recommendation that a suitable setback from the pipeline right-of-way be imposed. We would be satisfied with a building setback of 7-10 metres from the pipeline right-of-way. In addition, all landowners who are proposing construction of a laneway suite adjacent to the pipeline right-of-way or within the 30 metre prescribed area as described in section 112 of the National Energy Board Act and Damage Prevention Regulations, would be required to contact TNPI prior to the commencement of any work. This call can be initiated through Ontario One Call (1-800-400-2255). TNPI will attend the site to mark the pipeline and confirm safe work practices. TNPI permits may also be required.

As always TNPI appreciates being consulted. Should you have any question, please do not hesitate to contact the undersigned.

Yours truly,



Alyssa Rhynd
Land and Right-of-Way Administrator
arhynd@tnpi.ca
289-475-5392



Trans-Northern

PIPELINE **SAFETY** IN YOUR COMMUNITY



At Trans-Northern Pipelines Inc. (TNPI), our highest priority is to operate in a safe and environmentally responsible manner. We are guided by our values: respectful, professional, trustworthy, results-focused and decisive.

ABOUT TRANS-NORTHERN PIPELINES



Our pipeline safely transports an average of **172,900 barrels** of refined fuel products daily including **gasoline, diesel, aviation and heating fuel** used by businesses and consumers.

Founded in
1949

850 km
of regulated pipeline
in **Ontario** and
Quebec

QUEBEC

Ottawa

Cornwall

Montreal

ONTARIO

Lake Ontario

Toronto

Hamilton

Nanticoke

National Energy Board



Office national de l'énergie

Canada

Regulated by the **National Energy Board (NEB)**, the government agency responsible for regulating pipelines in the interest of all Canadians.



canadian energy pipeline association
association canadienne de pipelines d'énergie

We are a member of the **Canadian Energy Pipeline Association (CEPA)**, which means we must demonstrate the highest level of operational excellence, safety and community responsibility.

WHERE IS OUR PIPELINE?

While our pipeline may look like a straight line on this map, underground it bends and curves to accommodate changes in the landscape and terrain.

OUR PRIORITY: KEEPING YOUR COMMUNITY SAFE

According to Natural Resources Canada, pipelines are the safest method of transporting large quantities of petroleum products over long distances. Here are some of the ways we ensure the safety of our underground pipelines every day.

Monitoring the pipeline inside and out: Trained Line Controllers remotely monitor and operate the pipeline 24 hours a day, seven days a week from our control room. We look for changes that may suggest a leak or other disturbance. If we find something, we investigate immediately.

We use specialized inspection tools to look inside the pipeline. If we find something that needs further review, we conduct an integrity dig, excavating around the pipeline so that we can visually inspect it. If we find a flaw or defect, we repair it and ensure that the area is returned to pre-excavation conditions.

We also check the area around the pipeline - called the right-of-way - using aerial surveillance, vehicle patrols and by walking the pipeline route on a regular schedule.

Marker signs:

You will know our pipeline is nearby if you see one of these signs.





Training for emergency situations: While pipeline incidents are rare, we are prepared. We have an Emergency Response Plan (ERP) to guide our activities in the event of an emergency, which is approved by the NEB. You can review a copy at tnpi.ca.

We also conduct regular training to test our protocols with employees, third-party contractors, regulators, local emergency responders and others. And, we share our ERP with emergency responders and municipalities to ensure they know us and our protocols.

Working with our pipeline communities and landowners:

To get to know those who live or work near our pipeline, we participate in community events, host seminars and provide materials about pipeline safety.

We abide by the CEPA Code of Conduct for Land Representatives which means we regularly communicate with property owners and tenants about the pipeline, who to contact in case of questions and what to do if you notice anything out of the ordinary.

We always notify those living and working near our pipeline before we do any work in the area so they know what we are doing and any impact on their daily activities.

Where our pipeline crosses farm land, we work with the farmers to ensure we understand their activities and equipment and we ask them to notify us if they are making significant changes to their equipment, vehicles or if they need to excavate or conduct similar work near the pipeline. Together we can ensure the community, the environment and the pipeline are protected.

Continuous improvement: We regularly review and update our practices and processes and invest in our infrastructure. We continue to strengthen our engineering team and regularly consult with third-party subject matter experts so we can better analyze data about how fuel moves through our pipeline. We increased our integrity maintenance program and capital investment budgets and invested in modernizing our information management and reporting systems so we can better access, collect, analyze and review data about our operations.

Pumps and meters:
Along the pipeline are 17 pump stations to ensure fuel flows through the pipeline efficiently and five meter stations to continuously analyze the quality and quantity of fuel as it is transported.

GET PERMISSION BEFORE YOU WORK

Unauthorized construction and digging are leading causes of damage to pipelines. And, our pipeline is not the only underground utility as other pipelines or cables may be in the same area.

It's the law to secure approval before:

- Installing underground utility cabling/piping
- Putting up a fence, poles or posts
- Building above or in-ground swimming pools
- Installing drainage or irrigation systems
- Landscaping activities
- Paving, blasting or digging

You also need permission to drive heavy machinery off a public road or to cross the right-of-way.



Get a FREE locate - 24 hours a day, seven days a week - which will tell you all of the utilities in the area.

Plan your work

Do you need a crossing request or permit?

Contact us at crossingrequestseast@tnpi.ca

We will:

- Verify the pipeline location within five business days
- Discuss permit requirements
- Within 10 business days, issue a permit or explain why a permit cannot be issued and visit the site to mark the pipeline and right-of-way limits so everyone knows where the pipeline is located before work begins
- Send an inspector, if needed

IF YOU SUSPECT A LEAK OR IF YOU STRIKE THE PIPELINE:



Stop all work, shut off all machinery and move to a safe location on foot

911

Call 911



Call our 24 hour emergency hotline
1-800-361-0608



Do not attempt to repair the pipe or operate any valves

See something out of the ordinary?

Call us at 1-800-361-0608.

Watch for and call if you see:

- Vandalism or suspicious behaviour near or at the pipeline or facilities
- Digging, excavating, tunneling or tree-planting near the pipeline
- Any contact with or damage to the pipeline
- Damage to marker signs
- Tall grasses, fallen trees, dirt or debris piles near the pipeline or in the right-of-way



Trans-Northern

Trans-Northern Pipelines Inc.



tnpi.ca



info@tnpi.ca



National Energy Board

[Home](#) > [Safety & Environment](#) > [Damage Prevention](#) > Living and Working Near Pipelines

Living and Working Near Pipelines



Pipelines are the safest method to transport products, such as natural gas, oil or other commodities, across the country. If these pipelines are damaged the results could be very serious. You have an important role to play to ensure safety. Please, click or call before you dig.

Click or Call Before You Dig

Contacting the one-call notification centre is the first step in the damage prevention process for all buried infrastructure. All NEB regulated pipelines are required to register their buried infrastructure with one-call notification centres. The national web portal at www.clickbeforeyoudig.com provides links and information for one-call notification centres across Canada.

Before undertaking a ground disturbance, you must click or call the one-call centre serving your area to contact the pipeline company and obtain written consent for the ground disturbance within the prescribed area (safety zone) 30 metres (100 feet) perpendicularly on either side of the pipe. You must also obtain written consent from the pipeline company if you want to construct a facility near the pipeline. If you are unable to reach an agreement with the pipeline company, contact the National Energy Board at 1-800-899-1265.

Did you know?

- Unauthorized construction, installation of a facility or ground disturbance over or near a pipeline is illegal.
- The pipeline company must inform you within 10-business days whether consent for your project has been granted or refused. If consent has been refused, the pipeline company must inform you of the reasons.
- The pipeline company has three business days to respond to a request to locate its pipeline.



Pipeline signs
and marker posts
do not indicate
the exact location
of a pipeline
or right of way.

ALWAYS call before you dig.

The Pipeline Right of Way

A pipeline is installed within a strip of land referred to as a right of way. The pipeline company has acquired rights to use this land for the construction, operation and maintenance of its pipelines, however, ownership of the land remains with the landowner.

Activities within the right of way are governed by the NEB Act, the *NEB Pipeline Damage Prevention Regulations – Authorizations* and *NEB Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*, and easement agreements negotiated between the landowner and the pipeline company.

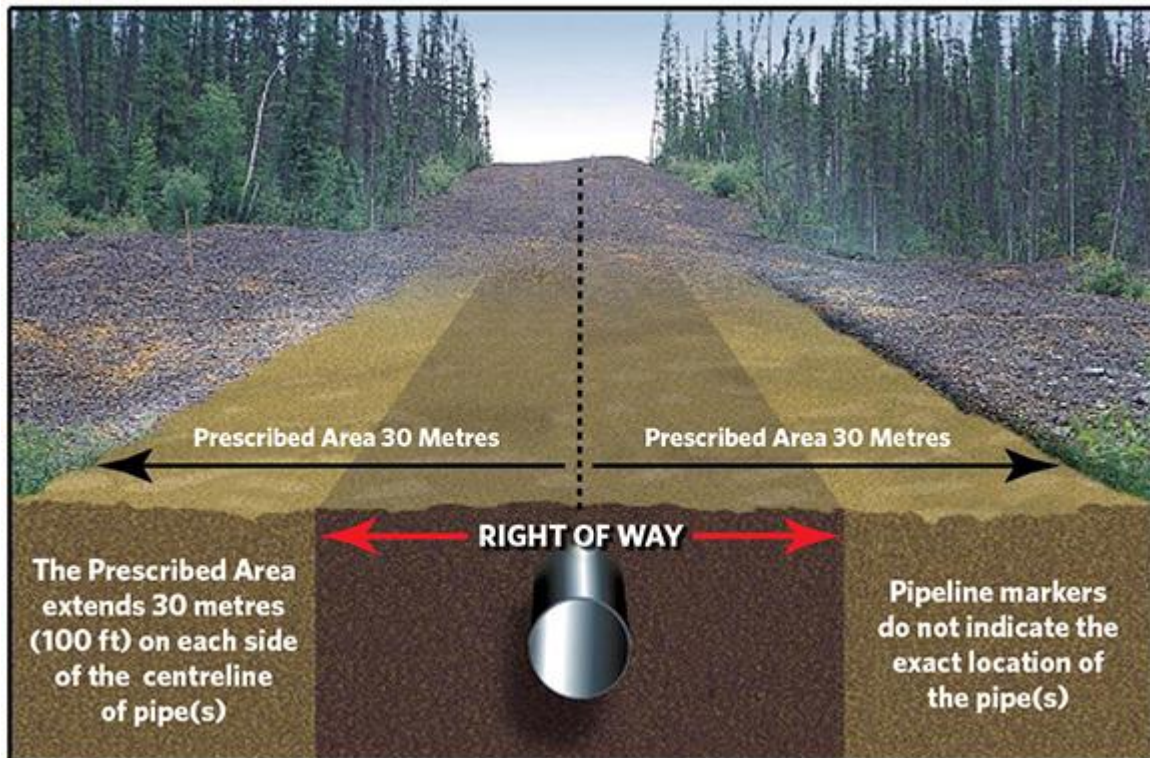
To ensure safety, you will need to contact the company to get written consent for a number of different activities on the right of way. These activities include, but are not limited to.

- operating vehicles or mobile equipment over the right of way where a roadway does not exist
- Reducing the depth of soil covering the pipeline
- Agricultural Ploughing or Tilling 45 cm and below
- Ground levelling
- Installing drainage systems

- Augering
- Fencing

The Prescribed Area

The prescribed area, also known as the safety zone extends 30 metres (100 feet) on either side of the centreline of the pipe. To ensure safety, ground disturbance activities within this zone require approval from the pipeline company. If you are unable to obtain consent, you may apply to the Board for approval of the activity.



Temporary Prohibition

There may be situations where a ground disturbance activity outside of the prescribed area may pose a potential hazard to the pipe. When a temporary prohibition area is designated, no ground disturbance activity may be performed in this area until

- the end of the third working day after the day on which the request is made; or
- at any later time that is agreed to between the pipeline company and the person making the request.

Confirm with the company representative that the company's pipeline in the area has been marked by the locator and that you understand the meaning of the various stakes and markings. A misunderstanding could cause you to damage a pipe, endangering your own life and that of others.

Safety Checklist

SAFETY CHECKLIST when planning activities near a pipeline:


1. **Plan your activity.** Identify the precise location of your work, check records for evidence of pipeline easements or other buried facilities.
2. **Go to the site** and look for pipeline warning signs or pipeline marker posts.

3. **Contact the pipeline company** and obtain a copy of the pipeline company's guidelines for constructing a facility, conducting activities causing a ground disturbance, or crossings in the vicinity of a pipeline.
4. **Obtain the pipeline company's written consent** for the construction of facilities across, on, along or under a pipeline, conducting activities causing a ground disturbance in the prescribed area, or crossing a pipeline with a vehicle or mobile equipment.
5. **Make a locate request** at least three working days before the day on which the construction or ground disturbance activity is started, by calling the one-call centre, or by calling the pipeline company where there is no one-call centre, to have the pipe located and marked.
6. **Be on site** when the pipeline is located, and **know the meaning of the pipeline markings**.
7. **Review NEB requirements** with all persons working on your behalf, including employees, contractors and subcontractors, to ensure they are aware of their obligations. Keep documents with safety requirements and guidance on site.
8. **Expose the pipe by hand digging or other acceptable excavation techniques accepted by the pipeline company** prior to any mechanical excavation within three metres of the pipe. **Follow the instructions of the pipeline company's authorized field representative.**
9. **Notify the pipeline company** prior to backfilling over the pipe or facilities, where the pipe or facilities have been exposed. **Follow the instructions of the pipeline company's authorized field representative.**
10. **IMMEDIATELY NOTIFY THE PIPELINE COMPANY IF YOU COME INTO CONTACT WITH THE PIPE!** A small scratch or dent in the pipe's coating can impact the long term safety of the pipe and must be assessed by the pipeline company.

NEB Regulated Pipelines

The main pipelines regulated by the NEB are operated by:

Alliance Pipeline Ltd.
Enbridge Pipelines Inc.
Enbridge Pipelines (NW) Inc.
Foothills Pipe Lines Ltd.
Gazoduc Trans Québec & Maritimes Inc.
Kinder Morgan Cochin ULC
Maritimes & Northeast Pipeline Management Ltd.
NOVA Gas Transmission Ltd.
Trans Mountain Pipeline Inc.
Trans-Northern Pipelines Inc.
TransCanada PipeLines Limited
Westcoast Energy Inc., carrying on business as Spectra Energy Transmission

Many smaller pipelines are also regulated by the NEB. If you have a question about the NEB's jurisdiction over a particular pipeline, please call us at 1-800-899-1265  or visit our Web site at www.neb-one.gc.ca.

Working together for pipeline safety.

The following provides information on one-call centres within Canada:

National web portal for one-call notification centres in Canada: www.clickbeforeyoudig.com

This portal will also tell you where you have to contact the pipeline companies directly.

Call or click before you dig! Contact your one-call centre.

British Columbia www.bconecall.bc.ca BC One Call: 1-800-474-6886	Ontario www.on1call.com Ontario One Call: 1-800-400-2255
Alberta albertaonecall.com Alberta One Call Corporation: 1-800-242-3447	Québec www.info-ex.com Info-Excavation: 1-800-663-9228
Saskatchewan www.sask1stcall.com Sask First Call: 1-866-828-4888	Atlantic Canada www.info-ex.com Info-Excavation: 1-866-344-5463 1-800-663-9228
Manitoba www.clickbeforeyoudigmb.com Click Before You Dig MB: 1-800-940-3447	
Contact the pipeline company directly in the Northwest Territories.	

About the National Energy Board

The National Energy Board regulates pipelines, energy development and trade in the Canadian public interest.

The NEB regulates activities on or adjacent to rights of way under Board jurisdiction in the interests of the protection of property, the environment, and the safety of the public and of the pipeline company's employees. NEB staff regularly perform audits and inspections of pipeline companies to ensure their compliance.

Contact the NEB

Each ground disturbance or construction activity is unique, and this guide cannot deal with all cases. If you need further assistance with any ground disturbance or construction activity near a federally regulated pipeline, please call us at 1-800-899-1265 and ask for an Operations Inspector responsible for damage prevention or email dpinfo@neb-one.gc.ca

The *National Energy Board Act*; the *National Energy Board Pipeline Damage Prevention Regulations* and other NEB publications are available from:

The Publications Office

National Energy Board
 517 Tenth Avenue SW
 Calgary, Alberta
 T2R 0A8

E-mail: publications@neb-one.gc.ca

Telephone: 403-299-3561

Telephone (toll free): 1-800-899-1265

Facsimile: 403-292-5503

Facsimile (toll free): 1-877-288-8803

TTY (teletype): 1-800-632-1663

Our publications are also available on our Website: www.neb-one.gc.ca

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National Energy Board



Office national de l'énergie

Pipeline Damage Prevention

Ground Disturbance, Construction and Vehicle Crossings

June 2016



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www.one-neb.gc.ca

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WARNING NOTE

Each ground disturbance, construction activity or vehicle crossing is unique and this guide cannot deal with all cases. Its purpose is to help you determine whether you must obtain consent, where to obtain it and how to obtain it. This document should be regarded as a guide and the *National Energy Board Act*, and the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations and National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies*, the Act and the Regulations shall take precedence.

This booklet also contains a consolidation of the:

National Energy Board Pipeline Damage Prevention Regulations - Authorizations, SOR/2016-124
National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies, SOR/2016-133

Users of this office consolidation are reminded that it is prepared for convenience of reference only.

www.neb-one.gc.ca

1-800-899-1265





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1. NATIONAL ENERGY BOARD REGULATIONS

The National Energy Board (NEB or the Board) takes all available actions to protect Canadians and the environment. As a result of on-going regulatory efforts and continued monitoring, pipelines continue to be a safe method to transport products, such as natural gas, oil or other commodities, across the country.

Preventing damage to pipelines is a shared responsibility. Pipeline companies and anyone living or working near pipelines have an important role to ensure that activities near pipelines are conducted safely. The *National Energy Board Act* (the NEB Act) and its regulations define the responsibilities of both pipeline companies and anyone planning to conduct an activity near a pipeline. It is often human error that causes damage to pipelines that may put your safety, your community and the environment at risk. Please be aware of pipelines and always click or call before you dig!



The purpose of the NEB's regulations for pipeline damage prevention is to ensure the safety of all persons living or working near pipelines. The regulations provide a framework to allow activities near pipelines to occur if they can be conducted safely.

The NEB is committed to continual improvement of the regulatory framework for pipeline damage prevention. Should you have any questions or feedback on this guidance, please send them to DPinfo@neb-one.gc.ca.

One-Call Centres

National web portal for one-call notification centres in Canada: www.clickbeforeyoudig.com

This portal will also tell you where you have to contact the pipeline companies directly.

Call or click before you dig! Contact your one-call centre.

British Columbia

www.bconecall.bc.ca

BC One Call: 1-800-474-6886

Alberta

<http://albertaonecall.com>

Alberta One Call Corporation: 1-800-242-3447

Saskatchewan

www.sask1stcall.com

Sask First Call: 1-866-828-4888

Manitoba

<http://www.clickbeforeyoudigmb.com/>

Click Before You Dig MB: 1-800-940-3447

Ontario

www.on1call.com

Ontario One Call: 1-800-400-2255

Québec

www.info-ex.com

Info-Excavation: 1-800-663-9228

Atlantic Canada

www.info-ex.com

**Info-Excavation: 1-866-344-5463
1-800-663-9228**

Contact the pipeline company directly in the Northwest Territories.



The National Energy Board Regulations for Pipeline Damage Prevention

Experience has shown that many pipeline incidents are caused by contractors or others working near the pipeline. Unsafe construction and ground disturbance practices can damage a pipeline and the environment, sometimes resulting in injury or death to construction company workers and bystanders. In addition to the dangers to people and the environment, such damage can lead to expensive repairs as well as a loss of revenue and essential services.

The NEB is focused on the safety of pipelines under its jurisdiction. Under section 112 and section 48(2) of the NEB Act, the NEB developed the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations (DPR - Authorizations)* and *National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies (DPR - Obligations of Pipeline Companies)* (the Regulations). Following these regulations will reduce the likelihood of damage to pipeline company facilities and enable you to complete your project safely and legally.

“Pipeline” in section 2 of the NEB Act is defined as follows: “pipeline” means a line that is used or to be used for the transmission of oil, gas or any other commodity and that connects a province with any other province or provinces or extends beyond the limits of a province or the offshore area as defined in section 123, and includes all branches, extensions, tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio and real and personal property, or immovable and movable, and works connected to them, but does not include a sewer or water pipeline that is used or proposed to be used solely for municipal purposes.

“Pipe” in section 2 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* means a pipe that is part of a pipeline and that is used or is to be used for the transmission of hydrocarbons or any other commodity.

Who is Affected by the Regulations?

Under section 112 of the NEB Act, the following are prohibited unless authorized through the Regulations or a Board order: ground disturbance activities within the prescribed area; facility construction across, on, along or under a pipeline; and vehicle crossings of a pipeline

The *DPR - Authorizations* applies to anyone who will be: undertaking an activity that causes a ground disturbance in the prescribed area, which extends 30 metres perpendicularly on either side from the centerline of the pipe (*DPR - Authorizations*, section 2); constructing a facility across, on, along, or under a pipeline; or crossing a pipeline (which includes the right-of-way) with a vehicle or mobile equipment. Activities to a depth less than 30 cm that do not reduce the total cover over the pipe at the time of construction and cultivation to less than 45 cm are not considered ground disturbance (NEB Act, section 2).

The *DPR - Obligations of Pipeline Companies* sets out responsibilities of pipeline companies concerning proposed ground disturbance activities, construction near pipelines and vehicle crossings. The NEB requires companies to anticipate, prevent, manage and mitigate potentially dangerous conditions associated with their pipelines.



What is a Ground Disturbance Activity?

Under section 2 of the NEB Act, ground disturbance does not include:

- cultivation to a depth of less than 45 cm below the surface of the ground
- any activity to a depth of less than 30 cm and that does not result in reduction of the depth of earth cover over the pipeline less than that approved at time of construction

Activities causing ground disturbance can include, but are not limited to, the following:

- digging
- excavation
- trenching
- ditching
- tunnelling
- boring/drilling/pushing
- augering
- topsoil stripping
- land levelling/grading
- plowing to install underground infrastructure
- tree planting
- clearing and stump removal
- subsoiling
- blasting/use of explosives
- quarrying
- grinding and milling of asphalt/concrete
- seismic exploration
- driving fence posts, bars, rods, pins, anchors, or pilings
- crossing of buried pipelines or other underground infrastructure by heavy loads off the travelled portion of a public roadway¹



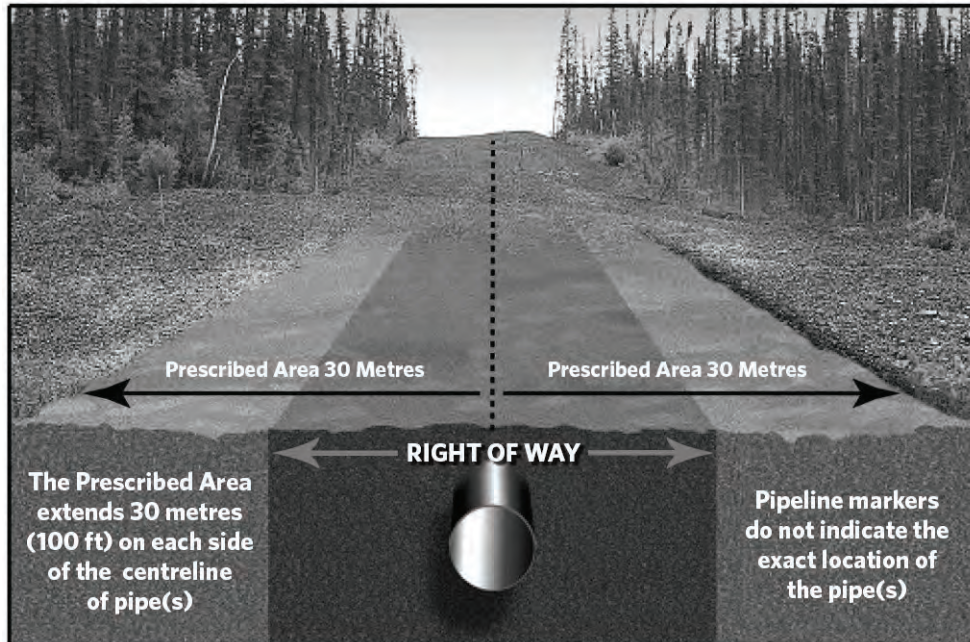
¹ Ref. CSA Z247 *Damage Prevention for the Protection of Underground Infrastructure*

What is the Prescribed Area?

The *DPR - Authorizations* provides that the prescribed area extends 30 metres perpendicularly in both directions from the centreline of a pipe. The intent of the prescribed area is to ensure:

- the protection of pipelines from damage that may result from activities causing ground disturbance; and
- the safety of all persons living or working near the pipeline.

Prescribed Area



What is a Facility?

In general, a facility includes but is not limited to:

- a structure (anything built or installed), for example: a fence, a concrete conduit structure, a swimming pool, a retaining wall, a shed;
- a highway, private road, lane, parking lot, walkway;
- a railway;
- a drainage or irrigation system, including dykes, ditches and culverts;
- a telecommunication line or power line; and
- a pipe, for example: a water main, a sewer, a gas line, an oil line.

Which Pipelines are under National Energy Board Jurisdiction?

In general, the NEB regulates natural gas, oil, and commodity pipelines that extend beyond provincial, territorial or national boundaries.

What Do the Regulations Provide?

The *DPR - Authorizations* explains the legal conditions under which ground disturbance in the prescribed area and construction of facilities near the pipeline (including the right of way) can be conducted safely. It also provides the requirements for authorization to cross a pipeline (including the right of way) with a vehicle or mobile equipment. The *DPR - Obligations of Pipeline Companies* outlines responsibilities of the pipeline company to you and the NEB.

If you cannot meet all the requirements of the Regulations, including obtaining the pipeline company's consent, you can apply to the Board for an order authorizing the ground disturbance activity.

If you have any questions about the Regulations, contact the NEB. Contact information is included in Appendix 1 of this guide.

It is illegal to proceed with: unauthorized construction of a facility across, on, along or under a right of way; unauthorized ground disturbance activity within the 30 metre (100 foot) prescribed area; or unauthorized vehicle or mobile equipment crossings.



2. OBTAINING CONSENT

What Activities Require Consent from the Pipeline Company?

Consent from the pipeline company is required for:

- Construction of a facility across, on, along, or under a pipeline (including the right of way);
- Ground disturbance activities in the prescribed area, which extends 30 metres (100 feet) from each side of the centreline of the pipe; and
- Operation of a vehicle or mobile equipment across a right of way, outside the travelled portion of a highway or public road.

What Activities Do Not Require Consent?

Overhead Lines

- While consent of the pipeline company is not required to construct an overhead line across a pipeline (assuming that ground disturbances do not occur in the prescribed area or that the construction does not involve vehicle or mobile equipment crossing), a person constructing an overhead line across the pipeline ROW must, prior to construction: obtain from the pipeline company the safety practices to be followed while working in the vicinity of its pipes; make a locate request; and wait for the pipeline company to mark their pipeline and explain the significance of those markings.
- Any person undertaking the construction of an overhead line across a pipeline must also comply with the applicable federal and provincial laws for the construction of the overhead lines. Ground to wire clearances are determined by a number of factors addressed in applicable codes and standards for the construction of overhead lines.
- Aerial warning devices must be installed and maintained by the person constructing the overhead line where it crosses the pipeline, if the pipeline is patrolled by aircraft, for the safety of pipeline company employees, the public and the pipeline.
- Poles, pylons, towers, guys, anchors or supporting structures must not be constructed or placed across, on, along or under the pipeline. If a third party proposes to place such structures on the pipeline ROW, separate authorization must be obtained in accordance with the procedures outlined in the other sections of the *DPR – Authorizations*, including section 7 and section 10.

Maintenance of an Existing Facility

- If maintenance of an existing facility in the prescribed area causes a ground disturbance, the person engaged in the maintenance must make a locate request in accordance with section 3 of *DPR – Authorizations* and obtain the necessary information from the pipeline company, including written safety practices, and an explanation of the markings made as a result of the locate request. If performing mechanical excavation within 3 metres of the pipe, the person engaged in the maintenance must follow the requirements for such excavation outlined in paragraph 10(3)(c) of *DPR – Authorizations*.
- The person engaged in the maintenance must also comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed during the activity and that relate to the pipeline's safety and security.

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- If interference with or alteration of a pipe becomes necessary, the person engaged in the maintenance must obtain the pipeline company's written consent to interfere with or alter the pipe.
- The person engaged in the maintenance must carry out any activity that involves the interference with or alteration of a pipe under the pipeline company's supervision. As well, the person engaged in the maintenance must immediately notify the pipeline company of any contact with a pipe or its coating during the activity.
- Unless otherwise agreed on by the pipeline company and the person that is engaged in the activity, the facility owner must notify the pipeline company at least 24 hours before backfilling over a pipe.
- See "Your Field Responsibilities" in this guidance for further information.

Crossing a Pipeline with an Agricultural Vehicle or Mobile Equipment

The *DPR - Authorizations* provides that persons operating agricultural vehicles or mobile equipment across pipelines may do so in low-risk areas, under certain conditions.

The operation across the pipeline of a vehicle or mobile equipment that is used for an agricultural activity is authorized if the following conditions are met:

- the loaded axle weight and tire pressures of the vehicle or mobile equipment are within the manufacturer's approved limits and operating guidelines; and
- the point of crossing has not been the subject of a notification from the pipeline company that crossing at that location could impair the pipeline's safety or security.

This applies to vehicles or mobile equipment used for agricultural activities in the production of crops and the raising of animals and includes pasturing and cultivation activities such as tillage, plowing, disking and harrowing.

If you have any doubts, please contact the applicable pipeline company or the NEB (see Appendix 1 for NEB contact information).

How to Obtain Consent from the Pipeline Company

1. Contact the pipeline company for a copy of their technical guidelines. These guidelines set out the information you need to include in your application to the pipeline company.
2. Prepare your request for consent following the pipeline company's guidelines.
3. If you have any questions pertaining to your project, contact the pipeline company **before** you submit your request for consent. They will discuss your project with you and, if necessary, provide assistance.
4. Submit your request for consent to the pipeline company.

Within ten working days of receiving your request, the pipeline company must either give you its consent or provide reasons for denying it. **If consent is denied, you may apply to the NEB for a review of your request under the NEB Act (section 112) and the *DPR - Authorizations* (section 14).**

If you decide to change the design, location, or type of facilities to be constructed **after** the pipeline company gives its consent, the pipeline company must agree to the changes **before** you start your work.

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Is There a Time Limit?

In general, the pipeline company's consent will lapse if all work is not completed within two years of the date that consent was given. However, this time limit may be changed if you and the pipeline company agree.

The pipeline company may suspend the consent given if technical details and conditions are not followed or unsafe construction practices are used (DPR - Obligations of Pipeline Companies, section 10). The NEB may order work to stop if the Board considers it necessary for the safety and security of the pipeline.

When Do You Require Approval from the National Energy Board?

If you cannot obtain the pipeline company's consent or you cannot comply with all the requirements in the Regulations, you must obtain the NEB's approval before starting: construction of a facility across, on, along, or under pipeline (including the right of way); any ground disturbance activity in the prescribed area (30 metres from either side of the centreline of the pipe); or the operation of a vehicle or mobile equipment across the pipeline (including the right of way).

You will also have to ask the NEB for its approval if:

- You cannot meet the conditions required by the pipeline company
- The pipeline company has suspended and not reinstated its consent for your proposed activity

Mining activities within 40 metres of a pipeline right of way require consent from the NEB (see NEB Act, section 81).

How to Apply to the National Energy Board for Authorization

An application to the Board for authorization is a letter or document that should include the location and full details of the proposed activity. The Board's Filing Manual provides guidance regarding the type of information the Board would typically need for a section 112 application, including information on the purpose and location of the activity, and the rationale for seeking approval from the Board. The applicant is requested to provide as much information as possible about the efforts made to obtain the pipeline company's consent for the activity prior to making the application to the Board, including the reasons given by the pipeline company for withholding its consent.

The Filing Manual can be accessed online at www.neb-one.gc.ca. The Filing Manual is also available from the Board's Library by calling 1-800-899-1265.

Applications should be addressed to:

Secretary of the Board
National Energy Board
517 Tenth Avenue S.W.
Calgary, AB T2R 0A8

Have Questions? Don't hesitate to contact us. Pipeline damage prevention staff are available by phone at 1-800-899-1265 or by email at DPinfo@neb-one.gc.ca.

Applications may be filed with the Board by mail, courier or by facsimile by calling the toll free number at 1-877-288-8803. Applications can also be uploaded through the NEB's Applications and Filings Portal on the NEB website at Home / Applications and Filings / Submit Applications and Regulatory Documents / File under the NEB Act / OPR: NEB Act - Guide C (<http://www.neb-one.gc.ca/pplctnflng/sbmt/nbpr-eng.html>).

A copy of the application must be forwarded to the pipeline company so that it can review the information and forward any comments it may have to the NEB.

3. YOUR RESPONSIBILITIES

Your Field Responsibilities

Please refer to the *DPR – Authorizations* for all third party responsibilities (see Appendix 4).

Once the pipeline company has given its written consent, you must follow these steps to comply with the Regulations.

1. For the construction of a facility or ground disturbance activity, contact a one-call centre

You must contact a one-call centre, or the pipeline company directly if one call services are not available in your area, to submit a locate request at least three working days before starting any work (except in the case of emergencies). The company must locate the pipe within three working days after the date of the request. This period of time may be extended if both you and the pipeline company agree.

Confirmation must be received from the pipeline company that all of the pipeline company's pipes in the vicinity of the construction or ground disturbance have been marked and the pipeline company must have clearly explained the significance of the markings to you. You must also receive written information from the pipeline company regarding the safety practices to be followed while working in the vicinity of its pipe or in the prescribed area. A misunderstanding could cause you to damage a pipe, endangering your own life and that of others.

2. Follow the instructions of the pipeline company

After written consent is obtained, and work is to start, you must comply with the safety measures in the company's consent, the regulations, and the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed while carrying out the ground disturbance activity in the prescribed area. This includes stopping the work if it may impair the pipeline's safety or security.

3. Duty to inform

If you are planning to conduct a ground disturbance or construction activity, or to operate a vehicle across a pipeline, you must inform anyone working on your behalf, including employees, contractors and subcontractors, of their obligations under the *DPR – Authorizations*.

If you are renting out your land, you will want to talk to your tenants about the *DPR – Authorizations* as they will also be expected to abide by them.

4. Provide notice for backfilling and report any damage immediately

You must provide the pipeline company with 24 hours' notice before backfilling over the pipe. **Any contact with the pipe or its coating must be reported to the pipeline company immediately as well as any other damage that may have occurred.** Even incidents which seem minor at the time – small dents and scratches on the pipe or any damage to the coating – could lead to serious problems such as corrosion which could eventually cause the pipe to rupture.

At no time are you allowed to move or alter the pipe or its fittings, or in any other way interfere with the pipe without the written consent of the pipeline company, and then only if the work is done under its direct supervision. (See *DPR – Authorizations*, paragraphs 10 (3)(e) and (f))

5. Observe the temporary prohibition area

The temporary prohibition area differs from and should not be confused with the 30 metre (100 feet) prescribed area. When a pipeline company receives a locate request for a ground disturbance activity, they may designate a temporary prohibition area in the vicinity of the pipeline which may extend beyond the 30 metre prescribed area. This may occur when there are situations where a ground disturbance activity outside of the prescribed area may pose a potential hazard to the pipe. When a temporary prohibition area is designated, no ground disturbance activity may be performed in this area until:

- the end of the third working day after the day on which the request is made; or
- at any later time that is agreed to between the pipeline company and the person making the request.

6. Follow the rules for mechanical excavation within three metres of the pipe

(See *DPR - Authorizations*, paragraph 10(3)(c))

Ground disturbance using mechanical equipment is not permitted within three metres (10 feet) of the pipe unless:

- i. if the excavation runs parallel to the pipe, the pipe has been exposed by hand at sufficient intervals to confirm the pipe's location or the pipeline company has used a method that would permit it to confirm the pipe's exact location and has informed the person of that location,
- ii. if the excavation crosses the pipe, the pipe has been exposed by hand at the point of crossing or the pipeline company has used a method that would permit it to confirm the pipe's exact location, has informed the person of that location and has confirmed that the pipe is at least 60 cm deeper than the proposed excavation, and
- iii. if ground conditions render it impractical to locate the pipe using any of the methods set out in (i) and (ii), the pipeline company directly supervises any excavation.

When boring directionally or using explosives, you must meet the pipeline company's conditions.

7. Comply with the pipeline company's conditions/instructions or the conditions of a Board approval

The pipeline company may have made its consent conditional on meeting certain requirements. You must comply with the company's conditions, as well as with the instructions of any authorized pipeline company field representative regarding procedures when working near the pipeline.

If the Board has approved the activity, you must comply with the conditions outlined in the Board's order.

Your Responsibilities After Construction

(See *DPR – Authorizations*, sections 8 and 11)

If you are the owner of the facility that is constructed across, on, along or under a pipeline, you must maintain the facility in good condition so that it will not impact the safety of the pipeline. This remains your responsibility until you can show that someone else has taken over the ownership of the facility, or until it has been removed or abandoned in a manner that does not adversely affect the pipeline’s safety and security or jeopardize property and the environment and the safety and security of the public and of the pipeline company’s employees.

Facility owners must contact the one-call centre or the pipeline company directly prior to any maintenance activities that could cause a ground disturbance in the prescribed area; for further information regarding requirements for maintenance activities, see section 11 of *DPR – Authorizations*.

If you decide to remove or abandon the facility, you must notify the pipeline company in writing before doing so. You must also remove or alter your facility if it is determined that it could adversely affect the safe and efficient operation of the pipeline. The NEB may require you to remove or alter your facility if it determines that it is necessary. When removing your facility, any ground disturbance required would have to be authorized. If you are abandoning your facility, the pipeline company may require that you take precautions to ensure that deterioration of the facility does not become a hazard to the safety of the pipe.

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4. UNAUTHORIZED ACTIVITIES

The following are examples of unauthorized activities:

- a ground disturbance within the prescribed area, the construction of a facility near the pipeline or a non-agricultural crossing for which consent was not obtained;
- a ground disturbance within the prescribed area or the construction of a facility near the pipeline for which a locate request was not obtained;
- a ground disturbance within the prescribed area or construction of a facility in a manner that does not meet the conditions outlined in the consent or does not accord with the instructions of an authorized field representative;
- a crossing in the absence of consent for the purposes of an agricultural activity in an area that has been identified by the pipeline company as a location where such crossings could impair the pipeline's safety and security.

A failure to follow the requirements in the Regulations (e.g. obtaining consent, complying with conditions of consent, performing a locate request) must be immediately reported by the pipeline company to the Board.

If the Regulations are not followed when conducting an activity that causes a ground disturbance in the prescribed area, constructing a facility near a pipeline, or crossing a pipeline, it is unauthorized, and illegal, unless otherwise authorized by the Board.

The NEB may enforce against unauthorized activities for environmental protection and the safety of all involved. Contravention of section 112 of the NEB Act or the Regulations is an offence and could be subject to prosecution. Such contraventions are also designated violations subject to a monetary penalty under the NEB's *Administrative Monetary Penalties Regulations* (AMPs). For more information on AMPs, please go to the NEB's website at www.neb-one.gc.ca.

For more information on the NEB's enforcement framework, please refer to the Board's website under Safety and the Environment at www.neb-one.gc.ca, or contact damage prevention staff using the contact information below.

Contact us

If you have any questions about this guide or the Regulations, please do not hesitate to contact the NEB by email at DPinfo@neb-one.gc.ca or by phone at 1-800-899-1265.

You can find a copy of this document on the NEB website: www.neb-one.gc.ca.

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5. SAFETY CHECKLIST

The safety and security of Canadians and protection of the environment is the NEB's top priority. We recognize that anyone who lives and works near pipelines plays a key role in pipeline safety. You can help create a safe and secure environment for you, your family and community and the environment by following this checklist.

Please note that this checklist is a guide. Refer to the *DPR - Authorizations* to ensure that your project follows safety and legal requirements.

1. **Plan your activity.** Identify the precise location of your work; check records for evidence of pipeline easements or other buried facilities.
2. **Go to the site** and look for pipeline warning signs or pipeline marker posts.
3. **Contact the pipeline company** and obtain a copy of the pipeline company's guidelines for constructing a facility, conducting activities causing a ground disturbance, or crossings in the vicinity of a pipeline.
4. **Obtain the pipeline company's written consent** for the construction of facilities across, on, along or under a pipeline, conducting activities causing a ground disturbance in the prescribed area, or crossing a pipeline with a vehicle or mobile equipment.
5. **Make a locate request** at least three working days before the day on which the construction or ground disturbance activity is started, by calling the one-call centre, or by calling the pipeline company where there is no one-call centre, to have the pipe located and marked.
6. **Be on site** when the pipeline is located, and **know the meaning of the pipeline markings.**
7. **Review NEB requirements** with all persons working on your behalf, including employees, contractors and subcontractors, to ensure they are aware of their obligations. Keep documents with safety requirements and guidance on site.
8. **Expose the pipe by hand digging or other acceptable excavation techniques accepted by the pipeline company** prior to any mechanical excavation within three metres of the pipe. **Follow the instructions of the pipeline company's authorized field representative.**
9. **Notify the pipeline company** prior to backfilling over the pipe or facilities, where the pipe or facilities have been exposed. **Follow the instructions of the pipeline company's authorized field representative.**
10. **IMMEDIATELY NOTIFY THE PIPELINE COMPANY IF YOU COME INTO CONTACT WITH THE PIPE!** A small scratch or dent in the pipe's coating can impact the long term safety of the pipe and must be assessed by the pipeline company.

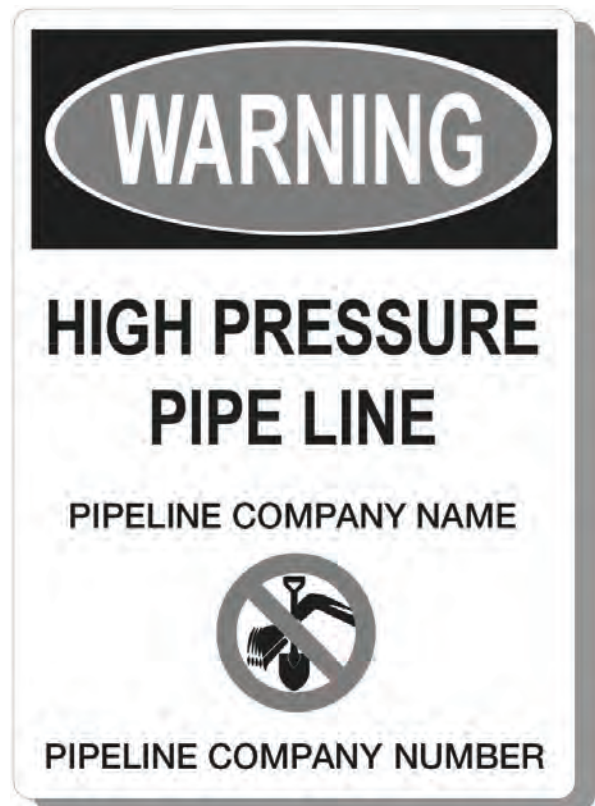
APPENDIX 1 – NATIONAL ENERGY BOARD CONTACT

For information concerning ground disturbance or construction near pipelines, and pipeline crossings:

DPinfo@neb-one.gc.ca
1-800-899-1265

Mailing Address

National Energy Board
517 Tenth Avenue SW
Calgary, Alberta T2R 0A8
Facsimile: (403) 292-5503
Facsimile (toll free): 1-877-288-8803
www.neb-one.gc.ca



APPENDIX 2 – ONE-CALL CENTRES

There may be buried utilities in the ground such as: electrical cables high pressure gas lines, television cables, water lines, oil lines, etc. It is important to know what is in the ground before you dig to protect you, the public and the environment.

If you plan a ground disturbance or construction activity, you must contact a One-Call centre. The One-Call centre will advise you of its member companies buried utilities in the area of your proposed activity. The One-Call centre will notify its member companies about your proposed activity and the pipeline company will mark the exact location of its facility(s).

National web portal for one-call notification centres in Canada: www.clickbeforeyoudig.com

This portal will also tell you where you have to contact the pipeline companies directly.

Call or click before you dig! Contact your one-call centre.

British Columbia

www.bconecall.bc.ca

BC One Call: 1-800-474-6886

Alberta

<http://albertaonecall.com>

Alberta One Call Corporation: 1-800-242-3447

Saskatchewan

www.sask1stcall.com

Sask First Call: 1-866-828-4888

Manitoba

<http://www.clickbeforeyoudigmb.com/>

Click Before You Dig MB: 1-800-940-3447

Ontario

www.on1call.com

Ontario One Call: 1-800-400-2255

Québec

www.info-ex.com

Info-Excavation: 1-800-663-9228

Atlantic Canada

www.info-ex.com

**Info-Excavation: 1-866-344-5463
1-800-663-9228**

Contact the pipeline company directly in the Northwest Territories.

APPENDIX 3 – DAMAGE PREVENTION IN THE NATIONAL ENERGY BOARD ACT

Construction and ground disturbance

112 (1) It is prohibited for any person to construct a facility across, on, along or under a pipeline or engage in an activity that causes a ground disturbance within the prescribed area unless the construction or activity is authorized by the orders or regulations made under subsection (5) and done in accordance with them.

Use of vehicles and mobile equipment

112 (2) It is prohibited for any person to operate a vehicle or mobile equipment across a pipeline unless

- (a) that operation is authorized by the orders or regulations made under subsection (5) and done in accordance with them; or
- (b) the vehicle or mobile equipment is operated within the travelled portion of a highway or public road.

Terms and conditions

(3) Repealed.

Directions

(4) The Board may direct the owner of a facility constructed across, on, along or under a pipeline in contravention of this Act or the Board's orders or regulations to do such things as the Board considers necessary for the safety or security of the pipeline and may, if the Board considers that the facility may impair the safety or security of the operation of the pipeline, direct the owner to reconstruct, alter or remove the facility.

Regulations and orders

(5) The Board may make orders or regulations

- (a) governing the design, construction, operation and abandonment of facilities constructed across, on, along or under pipelines;
 - (a.1) prescribing the area for the purposes of subsection (1);
 - (a.2) authorizing the construction of facilities across, on, along or under pipelines;
 - (a.3) authorizing ground disturbances within the prescribed area;
- (b) governing the measures to be taken in relation to
 - (i) the construction of facilities across, on, along or under pipelines,

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(ii) the construction of pipelines across, on, along or under facilities, other than railways, and

(iii) ground disturbances within the prescribed area;

(c) authorizing the operation of vehicles or mobile equipment across a pipeline and governing the measures to be taken in relation to that operation; and

(d) specifying activities for the purposes of paragraph (a) of the definition “ground disturbance” in section 2.

Temporary prohibition on ground disturbance

(5.1) Orders or regulations made under subsection (5) may provide for the prohibition of ground disturbances in an area that is situated in the vicinity of a pipeline and that may extend beyond the prescribed area during the period that starts when a request is made to a pipeline company to locate its pipeline and ends

(a) at the end of the third working day after the day on which the request is made; or

(b) at any later time that is agreed to between the pipeline company and the person making the request.

Exemptions

(6) The Board may, by order made on any terms and conditions that the Board considers appropriate, exempt any person from the application of an order or regulation made under subsection (5).

Inspection Officers

(7) The provisions of sections 49 to 51.3 relating to inspection officers apply for the purpose of ensuring compliance with orders and regulations made under subsection (5).

Offence

(8) Every person who contravenes subsection (1) or (2), a direction made under subsection (4) or an order or regulation made under subsection (5) is guilty of an offence and liable

(a) on summary conviction, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year or to both; or

(b) on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years or to both.

Application of subsections 121(2) to (5)

(9) Subsections 121(2) to (5) apply, with any modifications that the circumstances require, to an offence under subsection (8).

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Definitions

“pipeline” in section 2 of the NEB Act:

“pipeline” means a line that is used or to be used for the transmission of oil, gas or any other commodity and that connects a province with any other province or provinces or extends beyond the limits of a province or the offshore area as defined in section 123, and includes all branches, extensions, tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio and real and personal property, or immovable and movable, and works connected to them, but does not include a sewer or water pipeline that is used or proposed to be used solely for municipal purposes.

“ground disturbance” in section 2 of the NEB Act:

“ground disturbance” does not include a ground disturbance caused by

- a) any activity that is specified in the orders or regulations made under section 112(5),
- b) cultivation to a depth of less than 45 cm below the surface of the ground, or
- c) any activity to a depth of less than 30 cm and that does not result in reduction of the depth of earth cover over the pipeline to a depth that is less than the cover provided when the pipeline was constructed.



APPENDIX 4 – REGULATIONS AND RELATED GUIDANCE

National Energy Board Pipeline Damage Prevention Regulations - Authorizations

Interpretation

Definitions

1 The following definitions apply in these Regulations.

Act means the *National Energy Board Act*. (*Loi*)

facility means any structure, highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telephone line, telegraph line, telecommunication line, line for the transmission of electricity or pipe for the transmission of hydrocarbons or any other substance. (*installation*)

offshore area means the submarine areas adjacent to the coast of Canada. (*zone extracôtière*)

overhead line means a facility that is an above-ground telephone, telegraph, telecommunication or electric power line or any combination of those lines. (*ligne aérienne*)

pipe means a pipe that is part of a pipeline and that is used or is to be used for the transmission of hydrocarbons or any other commodity. (*conduite*)

working day means any day that is not a Saturday or a Sunday or other holiday. (*jour ouvrable*)

General Provisions

Prescribed area

2 For the purposes of subsection 112(1) of the Act, the prescribed area means a strip of land measured 30 m perpendicularly on each side from the centreline of a pipe.

Locate request — person

3 (1) Subject to subsection (2), any person that intends to construct a facility across, on, along or under a pipeline or engage in an activity that would cause a ground disturbance within a prescribed area must make a locate request in the following manner at least three working days before the day on which the construction or activity is to start:

- (a) to a one-call centre if the intended construction or activity is within an area where a one-call centre exists; or
- (b) to the pipeline company directly if the intended construction or activity is not within an area where a one-call centre exists.



Locate request — pipeline company

(2) Any pipeline company that intends to construct a facility across, on, along or under its pipeline or engage in an activity that would cause a ground disturbance within a prescribed area must make a locate request to a one-call centre at least three working days before the day on which the construction or activity is to start if the intended construction or activity is within an area where a one-call centre exists.

Emergency

(3) In the case of an unexpected situation that could endanger life or cause substantial property or environmental damage that requires immediate action, the three-day period set out in subsections (1) and (2) does not apply and the locate request must be made as soon as possible before the construction or activity starts.

One-call centre

- (4) A one-call centre is an organization that, for the purposes of protecting the underground infrastructures of its members from damage and ensuring public safety,
 - (a) receives locate requests from within a defined geographical area; and
 - (b) notifies its members that may be affected by any proposed construction or any proposed activity that would cause a ground disturbance and that are the subject of a locate request of that construction or activity.

Duty to inform

4 Any person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within a prescribed area or operate a vehicle or mobile equipment across a pipeline must, before the construction, activity or operation is to start, inform all persons working on their behalf, including employees, contractors and subcontractors, of their obligations under these Regulations.

Designation of temporary prohibition area

5 If a pipeline company, after having received a locate request from a person that intends to engage in an activity that would cause a ground disturbance within a prescribed area, designates an area that is situated in the vicinity of a pipeline and that may extend beyond the prescribed area as a prohibition area, the ground disturbance is prohibited within the area during the period referred to in subsection 112(5.1) of the Act.

Authorization Under the Act

Pipeline company

- 6 For the purposes of subsection 112(1) and paragraph 112(2)(a) of the Act and despite sections 7 and 9 to 13 of these Regulations, the construction of a facility — in an area other than an offshore area — across, on, along or under a pipeline, an activity — in an area other than an offshore area — that would cause a ground disturbance within a prescribed area and the operation of a vehicle or mobile equipment across a pipeline is authorized if the pipeline company that intends to carry out the construction, activity or operation
 - (a) is authorized to carry out the construction, activity or operation under the Act;
 - (b) makes a locate request in accordance with section 3; and



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- (c) if another pipeline company receives the locate request, the pipeline company that made the locate request obtains from the other pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies.

Facility

Authorization - of construction

7 (1) For the purposes of subsection 112(1) of the Act, the construction of a facility — in an area other than an offshore area — across, on, along or under a pipeline, other than the construction of an overhead line referred to in section 9, is authorized if the person that intends to construct the facility

- (a) obtains the pipeline company's written consent;
- (b) makes a locate request in accordance with section 3; and
- (c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies.

Suspension

(2) If the consent is suspended by the Board, or by the pipeline company in accordance with subsection 10(1) of the National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies, the authorization is suspended and the construction must cease for the duration of the suspension of the consent.

Measures

(3) Any person that is undertaking the construction of a facility must comply with the following measures:

- (a) ensure that the construction is carried out in accordance with the technical details that are set out in the person's request for consent and that have been accepted by the pipeline company, as well as with the conditions set out in the pipeline company's consent;
- (b) ensure that the construction is completed within two years after the day on which the consent was obtained, unless the pipeline company and the person agree on another time period that is set out in the consent;
- (c) comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed while carrying out the construction in the vicinity of a pipe and that relate to the pipeline's safety and security;
- (d) if interference with or alteration of a pipe becomes necessary, obtain the pipeline company's written consent to interfere with or alter the pipe;
- (e) carry out any construction that involves the interference with or alteration of a pipe under the pipeline company's supervision; and
- (f) immediately notify the pipeline company of any contact with a pipe or its coating during the construction.

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Obligations — existing facilities

- 8** The owner of a facility that is constructed — in an area other than an offshore area — across, on, along or under a pipeline must
- (a) maintain the facility in a state of good repair compatible with the pipeline’s safety and security;
 - (b) immediately correct any deterioration in the facility on being so notified in writing by the pipeline company under subsection 9(1) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*;
 - (c) notify the pipeline company, in writing, of any proposed abandonment or removal of the facility; and
 - (d) remove or alter the facility or part of the facility that could adversely affect the pipeline’s safe and efficient operation or that could jeopardize property and the environment and the safety and security of the public and of the pipeline company’s employees.

Authorization for construction of overhead line

- 9 (1)** For the purposes of subsection 112(1) of the Act, the construction of an overhead line across a pipeline — in an area other than an offshore area — is authorized if the person that intends to construct the overhead line
- (a) makes a locate request in accordance with section 3;
 - (b) confirms with the pipeline company that all of the pipeline company’s pipes in the vicinity of the construction have been marked; and
 - (c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*.

Measures

- (2)** Any person that is undertaking the construction of an overhead line across a pipeline must comply with the following measures:
- (a) construct the overhead line in accordance with any applicable provincial and federal law;
 - (b) if the pipeline is patrolled by aircraft and if the overhead line poses a risk to the aircraft, install and maintain aerial warning devices; and
 - (c) not construct or place any kind of pole, pylon, tower, guy, anchor or supporting structure across, on, along or under the pipeline.

Activity that Causes a Ground Disturbance

Authorization – ground disturbance activity

10 (1) For the purposes of subsection 112(1) of the Act, any activity — in an area other than an offshore area — that would cause a ground disturbance within the prescribed area, other than an activity referred to in section 11, is authorized if the person that intends to engage in the activity

- (a) obtains the pipeline company’s written consent;
- (b) makes a locate request in accordance with section 3; and
- (c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*.

Suspension

(2) If the consent is suspended by the Board, or by the pipeline company in accordance with subsection 10(1) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*, the authorization is suspended and the activity must cease for the duration of the suspension of the consent.

Measures

(3) Any person that is engaged in an activity that causes a ground disturbance within the prescribed area must comply with the following measures:

- (a) ensure that the activity is carried out in accordance with the technical details that are set out in the person’s request for consent and that have been accepted by the pipeline company, as well as with the conditions set out in the pipeline company’s consent, including the conditions respecting directional drilling or the use of explosives;
- (b) ensure that the activity is completed within two years after the day on which the consent was obtained, unless the pipeline company and the person agree on another time period that is set out in the consent;
- (c) not undertake mechanical excavation that would cause a ground disturbance within the prescribed area within 3 m of a pipe, unless
 - (i) if the excavation runs parallel to the pipe, the pipe has been exposed by hand at sufficient intervals to confirm the pipe’s location or the pipeline company has used a method that would permit it to confirm the pipe’s exact location and has informed the person of that location,
 - (ii) if the excavation crosses the pipe, the pipe has been exposed by hand at the point of crossing or the pipeline company has used a method that would permit it to confirm the pipe’s exact location, has informed the person of that location and has confirmed that the pipe is at least 60 cm deeper than the proposed excavation, and
 - (iii) if ground conditions render it impractical to locate the pipe using any of the methods set out in subparagraphs (i) and (ii), the pipeline company directly supervises any excavation;
- (d) comply with the instructions of the pipeline company’s authorized field representative regarding the procedures that are to be followed during the activity and that relate to the pipeline’s safety and security;

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- (e) if interference with or alteration of a pipe becomes necessary, obtain the pipeline company's written consent to interfere with or alter the pipe;
- (f) carry out any activity that involves the interference with or alteration of a pipe under the pipeline company's supervision;
- (g) immediately notify the pipeline company of any contact with a pipe or its coating during the activity; and
- (h) unless otherwise agreed on by the pipeline company and the person that is engaged in the activity, notify the pipeline company at least 24 hours before backfilling over a pipe.

Authorization — activity required for maintenance of facility

11 For the purposes of subsection 112(1) of the Act, any maintenance of an existing facility — in an area other than an offshore area — that causes a ground disturbance within the prescribed area is authorized if the person engaged in the maintenance complies with paragraphs 10(1)(b) and (c) and the measures set out in paragraphs 10(3)(c) to (h).

Operation of Vehicles or Mobile Equipment Across a Pipeline

Authorization - operation across pipeline

12 Subject to section 13 and for the purposes of paragraph 112(2)(a) of the Act, the operation of a vehicle or mobile equipment across a pipeline is authorized if the person that intends to operate the vehicle or mobile equipment across the pipeline obtains the pipeline company's written consent.

Authorization — agricultural activity

13 (1) For the purposes of paragraph 112(2)(a) of the Act, the operation across the pipeline of a vehicle or mobile equipment that is used to perform an agricultural activity is authorized if the following conditions are met:

- (a) the loaded axle weight and tire pressures of the vehicle or mobile equipment are within the manufacturer's approved limits and operating guidelines; and
- (b) the point of crossing has not been the subject of a notification under section 7 of the *National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies*.

Definition of agricultural activity

(2) In this section, *agricultural activity* means the production of crops and the raising of animals and includes tillage, plowing, disking, harrowing and pasturing, but does not include the construction of new buildings or impervious areas or the placement of footings, foundations, pilings or posts, including fence posts.

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Application for Authorization

File application with Board

- 14 (1)** A person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within the prescribed area of a pipeline or operate a vehicle or mobile equipment across a pipeline may file an application for authorization with the Board if
- (a) the construction, activity or operation is not authorized under subsection 7(1), 9(1) or 10(1) or section 11 or 12; or
 - (b) the person is unable to comply with the applicable measures set out in subsection 7(3), 9(2) or 10(3)

Service

- (2)** If a person files an application under subsection (1), that person must serve a copy of the application on the pipeline company that operates the pipeline in question.

Transitional Provisions

Construction or excavation

- 15 (1)** Any leave granted by the Board prior to June 19, 2016 to construct a facility across, on, along or under a pipeline or to excavate using power-operated equipment or explosives within 30 m of a pipeline under subsection 112(1) of the Act, as it read immediately prior to that date, expires on the date set out in the leave, but if there is no date set out in the leave it expires two years after the day on which the leave was granted.

Crossing

- (2)** Any leave granted by the pipeline company prior to June 19, 2016 to operate a vehicle or mobile equipment across a pipeline under subsection 112(2) of the Act, as it read prior to that date, expires on the date set out in the leave granted by the pipeline company.

Construction or installation of facility

- 16** The construction or installation of a facility in respect of which a person has obtained written permission under paragraph 4(b) of the *National Energy Board Pipeline Crossing Regulations, Part I* prior to June 19, 2016 is authorized under subsection 112(1) of the Act, as it reads on June 19, 2016, and the measures to be taken in relation to that construction or installation are those set out in paragraphs 4(a) to (m) of those Regulations as they read immediately before the day on which these Regulations come into force.

Excavation

- 17** An excavation in respect of which a person has obtained the pipeline company's written permission under paragraph 6(b) of the *National Energy Board Pipeline Crossing Regulations, Part I* prior to June 19, 2016 is an authorized ground disturbance under subsection 112(1) of the Act, as it reads on June 19, 2016, and the measures to be taken in relation to the excavation are those set out in section 6 of those Regulations as it read immediately before the day on which these Regulations come into force.

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Application Prior to Publication

Statutory Instruments Act

18 For the purposes of paragraph 11(2)(a) of the *Statutory Instruments Act*, these Regulations apply before they are published in the *Canada Gazette*.

Repeal

19 The *National Energy Board Pipeline Crossing Regulations, Part I* are repealed.

Coming into Force

S.C. 2015, c. 21

20 These Regulations come into force on the day on which section 34 of the *Pipeline Safety Act* comes into force, but if they are registered after that day, they come into force on the day on which they are registered.



National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies

Interpretation

Definitions

1 The following definitions apply in these Regulations.

authorization means the authorization referred to in subsection 112(1) or paragraph 112(2)(a) of the *National Energy Board Act*. (*autorisation*)

facility means any structure, highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telephone line, telegraph line, telecommunication line, line for the transmission of electricity or pipe for the transmission of hydrocarbons or any other substance. (*installation*)

pipe means a pipe that is part of a pipeline and that is used or is to be used for the transmission of hydrocarbons or any other commodity. (*conduite*)

prescribed area has the meaning assigned by section 2 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*. (*zone réglementaire*)

working day means any day that is not a Saturday or a Sunday or other holiday. (*jour ouvrable*)

One-call Centre

Obligation to be a member

2 (1) If a pipeline company operates a pipeline within a geographical area where a one-call centre exists, the pipeline company must be a member of that centre.

One-call centre

(2) A one-call centre is an organization that, for the purposes of protecting the underground infrastructures of its members from damage and ensuring public safety,

(a) receives locate requests from within a defined geographical area; and

(b) notifies its members that may be affected by any proposed construction or any proposed activity that would cause a ground disturbance and that are the subject of a locate request of that construction or activity.

Consent

Inform person of decision

3 (1) If a pipeline company receives a request for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) or section 12 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*, the pipeline company must, within 10 working days after receiving the request, inform the person that made the request whether the consent has been granted or refused and, in the case of a refusal, the reasons for the refusal.

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Contents of consent

- (2) When a person makes a request to the pipeline company for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) of the *National Energy Board Pipeline Damage Prevention Regulations – Authorizations* that contains the technical and other information that enable the pipeline company to determine whether the construction or activity would impair the pipeline’s safety and security, the pipeline company may grant its consent subject to any conditions necessary for the protection of property and the environment, the safety and security of the public and of the company’s employees or the pipeline’s safety and security.

Amendment or addition of conditions

- (3) At any time during the construction of a facility or the activity that causes a ground disturbance, the pipeline company may add conditions or amend the conditions referred to in subsection (2) if it determines that additions or amendments are necessary to ensure the pipeline’s safety and security.

Obligation to Provide Information

Information – application for authorization

- 4 If a person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within the prescribed area of a pipeline or operate a vehicle or mobile equipment across a pipeline has made a request to the pipeline company for the information that is necessary to make an application to the Board for authorization, the pipeline company must, within 10 working days after receiving the request, give the person all the information, and provide all reasonable assistance, that is necessary to prepare the application.

Comments by pipeline company

- 5 If a pipeline company receives a copy of an application for authorization that has been filed with the Board, the pipeline company must, within 10 working days after receiving the copy of the application, send to the Board its comments on the application.

Obligations Following Request to Locate

Timeline

- 6 (1) Subject to subsection (2), if a pipeline company receives a request to locate its pipes from a person that intends to construct a facility across, on, along or under a pipeline or engage in an activity that would cause a ground disturbance within the prescribed area, the pipeline company must, within three working days after the day on which the request is made, or any longer period agreed to by the pipeline company and that person,
- (a) inform the person, in writing, of safety practices to be followed while working in the vicinity of its pipes and, in case of a ground disturbance, within the prescribed area;
 - (b) mark the location of its pipes in the vicinity of the proposed facility or the prescribed area at maximum intervals of 10 m along each pipe using markings that are clearly visible and distinct from any other markings that may be in the vicinity of the proposed facility or the prescribed area; and
 - (c) provide information to the person that clearly explains the significance of the markings.

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Markings

- (2) The markings must be consistent with the standards for locating a pipeline that are set out in the pipeline company's damage prevention program.

Obligations Respecting Certain Locations

Agricultural activity

- 7 Even if the condition set out in paragraph 13(1)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* is met, when the operation of vehicles or mobile equipment across a pipeline at specific locations for the purposes of performing an agricultural activity could impair the pipeline's safety or security, the pipeline company must identify those locations and notify the following persons in writing of those locations:
 - (a) landowners of the specific locations in question; and
 - (b) persons that are engaged in agricultural activities, rent or lease the land or work as service providers or employees at the specific locations in question.

Inspections

Inspections and field observations

- 8 The pipeline company must
 - (a) carry out any inspections that are necessary to ensure the pipeline's continued safety and security during an activity that causes a ground disturbance within the prescribed area;
 - (b) inspect all exposed pipe prior to any backfilling over a pipe to ensure that no damage to the pipe has occurred; and
 - (c) in respect of any inspection carried out under paragraphs (a) and (b), make field observations relating to
 - (i) if a pipe was exposed, the clearance between the pipe and the facility and the condition of the pipe at the time of backfilling over the pipe,
 - (ii) the compliance with the measures set out in the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*,
 - (iii) the method used to engage in the activity that caused a ground disturbance, and
 - (iv) the occurrence of any unusual events that are related to the construction or activity and that may have had an effect on the pipeline's safety or security.

Deterioration — notify facility owner

- 9 (1) If the pipeline company detects any deterioration of a facility that might adversely affect a pipe, the pipeline company must notify the facility's owner in writing.
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Deterioration — notify Board

- (2) If the pipeline company detects any deterioration of a facility that would so impair the safety or security of the pipe as to warrant removal of the facility, the pipeline company must notify the Board in writing.

Suspension

Grounds

- 10 (1)** The pipeline company may suspend the consent that it granted to construct a facility or to engage in an activity that causes a ground disturbance within the prescribed area if
- (a) the person carrying out the construction of a facility does not comply with the technical details and the conditions referred to in paragraph 7(3)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* or the instructions referred to in paragraph 7(3)(c) of those Regulations;
 - (b) the person engaging in an activity that causes the ground disturbance does not comply with the technical details and the conditions referred to in paragraph 10(3)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* or the instructions referred to in paragraph 10(3)(d) of those Regulations; or
 - (c) work practices might impair the pipeline’s safety or security.

Notify Board

- (2) If a pipeline company suspends its consent pursuant to subsection (1), it must immediately notify the Board in writing of the suspension and give its reasons for the suspension.

Obligation to Report

Report to Board

- 11 (1)** The pipeline company must immediately report to the Board
- (a) every contravention of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*;
 - (b) all damage to its pipe caused or identified during the construction of a facility across, on, along or under a pipeline, the operation, maintenance or removal of a facility, an activity that caused a ground disturbance within the prescribed area or the operation of vehicles or mobile equipment across the pipeline; and
 - (c) any activity related to the construction of a facility across, on, along or under a pipeline, an activity that caused a ground disturbance within the prescribed area or the operation of vehicles or mobile equipment across a pipeline that the pipeline company considers could impair the safety or security of the pipe.

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Contents of report

(2) The report must include the following information:

- (a) details of any contravention or of any damage, including, in the case of damage, the cause and nature of the damage;
- (b) any concerns that the pipeline company may have regarding the pipeline's safety or security as a result of the construction of the facility, the activity that caused a ground disturbance or the operation of vehicles or mobile equipment across the pipeline; and
- (c) any action the pipeline company intends to take or request.

Records

Facilities and ground disturbances

12 (1) The pipeline company must keep a record of all construction of facilities across, on, along or under a pipeline and of all activities that cause a ground disturbance within the prescribed area for the life of the pipeline.

Contents of records

- (2) The records must include, for each facility or each activity that causes a ground disturbance, as the case may be,
 - (a) the name and address of the person that carries out the construction or engages in an activity that causes a ground disturbance;
 - (b) the nature and location of the facility or the activity that causes a ground disturbance;
 - (c) the dates of commencement and termination of the construction of the facility or the activity that causes a ground disturbance;
 - (d) a description of the proposed facility, submitted with the request for the consent;
 - (e) a copy of the pipeline company's written consent;
 - (f) in respect of the inspections referred to in paragraphs 8(a) and (b), all findings and observations, including
 - (i) the name of the person that conducted the inspection,
 - (ii) the date and time of the inspection, and
 - (iii) any field observations referred to in paragraph 8(c);
 - (g) a statement of whether the person that carried out the construction or the person that engaged in an activity that caused a ground disturbance has complied with the measures set out in the *National Energy Board Pipeline Damage Prevention Regulations – Authorizations*; and
 - (h) the details of any abandonment, removal or alteration of the facility.

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Consent — crossings

- (3) The pipeline company must keep a record that contains a copy of the written consents granted by the pipeline company for the purposes of section 12 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* for the life of the pipeline or, if there is an expiry date set out in the consent, for a period of 12 months from the day on which the consent expires.

Locations

- (4) The pipeline company must keep a record of the locations that are identified under section 7.

Duty to make records available

- 13 Every pipeline company that is required by these Regulations to keep records must make the records, and all other materials necessary to verify the information in those records, available to officers of the Board and other persons authorized by the Board for that purpose and must give the Board and other authorized persons any assistance necessary to inspect the records.

Lists

- 14 On the request of the Board, the pipeline company must provide the Board with
- (a) a list of every written consent granted for the purposes of section 12 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*;
 - (b) a list of every written consent granted by the pipeline company with respect to the construction of a facility or an activity that causes a ground disturbance and the information referred to in paragraphs 12(2)(a) to (c) with respect to the consent; and
 - (c) a list of every permission granted by the pipeline company for the purposes of the *National Energy Board Pipeline Crossing Regulations, Part I* and the information referred to in paragraphs 11(2)(a) to (c) of the *National Energy Board Pipeline Crossing Regulations, Part II* with respect to the permission.

Guidelines

Request for consent

- 15 Every pipeline company must develop and maintain detailed guidelines setting out the technical and other information to be included in the requests for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* and must make those guidelines public.

Damage Prevention Program

Minimum content

16 The damage prevention program that a pipeline company is required to develop, implement and maintain under section 47.2 of the *National Energy Board Onshore Pipeline Regulations* must include

- (a) an ongoing public awareness program to inform the public
 - (i) of the presence of a pipeline,
 - (ii) on how to work safely near a pipeline,
 - (iii) on how to report an unexpected situation related to a pipeline that could endanger life or cause substantial property or environmental damage that requires immediate action,
 - (iv) on how to report any contact with a pipe or its coating, whether or not the pipe was damaged,
 - (v) on how to report any damage to a pipe,
 - (vi) of the services of a one-call centre if one exists within the relevant geographical area,
 - (vii) on the necessity for authorization when constructing a facility across, on, along or under a pipeline, engaging in an activity that causes a ground disturbance within the prescribed area or operating vehicles or mobile equipment across a pipeline,
 - (viii) of the information to be provided in a request for the consent to construct a facility across, on, along or under a pipeline, to engage in an activity that causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across a pipeline, and
 - (ix) on the requirement to make a locate request and how to make a locate request in the relevant geographical area;
- (b) ongoing monitoring of any changes in the use of the land on which a pipeline is located and the land that is adjacent to that land;
- (c) ongoing monitoring of any change in the landowner of the land on which a pipeline is located;
- (d) a process to ensure a timely response to locate requests;
- (e) standards for locating a pipeline; and
- (f) a process for managing requests for the consent to construct a facility across, on, along or under a pipeline, to engage in an activity that causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across the pipeline.

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Transitional Provisions

Section 11 – former Regulations

17 Section 11 of the *National Energy Board Pipeline Crossing Regulations, Part II*, as it read immediately before the day on which these Regulations come into force, continues to apply to any person to which that section applied.

Section 14 – former Regulations

18 Section 14 of the *National Energy Board Pipeline Crossing Regulations, Part II*, as it read immediately before the day on which these Regulations come into force, continues to apply with respect to the permissions referred to in sections 15 and 16 of *National Energy Board Pipeline Damage Prevention Regulations – Authorizations*.

Application Prior to Publication

Statutory Instruments Act

19 For the purposes of paragraph 11(2)(a) of the *Statutory Instruments Act*, these Regulations apply before they are published in the *Canada Gazette*.

Repeal

20 The *National Energy Board Pipeline Crossing Regulations, Part II* are repealed.

Coming into Force

S.C. 2015, c. 21

21 These Regulations come into force on the first day on which both sections 15 and 34 of the *Pipeline Safety Act* are in force, but if they are registered after that day, they come into force on the day on which they are registered.

Related guidance:

- Guidance Notes - NEB Regulations for Pipeline Damage Prevention
- Guidance for Safe Crossings of NEB-Regulated Pipelines Using Agricultural Vehicles and Mobile Equipment



APPENDIX 5 – MAILING LIST REQUEST FORM

If you are interested in receiving updates directly from the NEB by mail, please send a complete copy of the form below (Appendix 5) and mail or fax it to the NEB.

Request to Be Included on Mailing List for Updated Information:

National Energy Board
Regulatory Support Office
517 Tenth Avenue SW
Calgary, Alberta T2R 0A8
Facsimile: 403-292-5503

Please add me to mailing list L19 to receive updated information.

Name:

Title:

Organization:

Mailing Address:

City:

Province/Territory:

Postal Code:

Telephone:





Thank you for taking the time to learn about the NEB's regulations for pipeline damage prevention. We hope this guide has answered many of your questions.

Publications may be ordered by:

- Mailing a request to NEB Library at the mailing address below
- Visiting the NEB Library located on the second floor
- Telephone: 403-299-3561 or 1-800-899-1265
- Fax: 403-292-5503 or 1-877-288-8803
- E-mail: publications@neb-one.gc.ca

For general information about the NEB and the energy sector:

- Mail: General Inquiries at the above address
- Telephone: 403-292-4800 or 1-800-899-1265
- Fax: 403-292-5503 or 1-877-288-8803
- E-mail: info@neb-one.gc.ca or for damage prevention specific information: DPinfo@neb-one.gc.ca

For settling compensation matters, please contact:

Natural Resources Canada (NRCan)

Pipeline Arbitration Secretariat

580 Booth Street, 17th Floor

Ottawa, Ontario K1A 0E4

Phone: 613-947-5664

Fax: 613-995-1913

E-mail: pas-sap@nrcan.gc.ca

Website: www.nrcan.gc.ca/energy/infrastructure/natural-gas/pipeline-arbitration-secretariat/5907

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Fax: 403-292-5503

Toll Free Fax: 1-877-288-8803

TTY (teletype): 1-800-632-1663

E-mail: DPinfo@neb-one.gc.ca