



canadian  
energy  
pipeline  
association | association  
canadienne  
de pipelines  
d'énergie

Suite 200, 505 – 3rd St. SW  
Calgary, Alberta T2P 3E6  
PHONE 403.221.8777  
FAX 403.221.8760

December 18, 2013

Ms. Sheri Young  
Secretary of the Board  
National Energy Board  
444-7<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 0X8

Facsimile: 403-299-5503 or 1-877-288-8803  
Email: [damagepreventionregs@neb-one.gc.ca](mailto:damagepreventionregs@neb-one.gc.ca)

Dear Ms. Young

**Re: Notice of Proposed Regulatory Change (NOPRC) 2013-01 – National Energy Board  
Damage Prevention Regulations (File Ad-GA-ActsLeg-Fed-NEBA-RRG-DPR 0201)**

The Canadian Energy Pipeline Association (CEPA) respectfully submits this letter of comment regarding the Notice of Proposed Regulatory Change (NOPRC) 2013-01, which is proposing amendments to the following regulations: the *National Energy Board Pipeline Crossing Regulations, Part I* (PCR Part I), the *National Energy Board Pipeline Crossing Regulations, Part II* (PCR Part II) and the *National Energy Board Onshore Pipeline Regulations* (OPR). CEPA's members are major Canadian pipeline companies whose transmission pipelines move 97% of the oil and natural gas produced in Canada to markets throughout North America.

CEPA understands that the amendments are designed to enhance public safety and system integrity and CEPA supports all efforts in that regard. Because the NOPRC only describes the proposed amendments at a high level, it is difficult to comment on whether the amendments will accomplish this essential objective. CEPA feedback, presenting the primary considerations which should be accounted for, is summarized within the four points below.

**1. Regulatory Wording**

In the absence of draft regulatory wording and guidance on interpreting key terms, it is difficult for CEPA to comment fully on the proposed changes. The high level considerations do not provide sufficient detail to understand the requirements of the proposed regulations, making it difficult to independently confirm whether the proposed regulations will enhance public safety and system integrity while improving the protection of buried pipelines as intended.

CEPA recommends that the NEB provide the draft wording of the proposed damage prevention regulations for comment prior to publishing it in the Canada Gazette Part I. Having an opportunity to comprehensively review the draft wording of the regulations would enable CEPA to contribute more meaningful comments. If the first opportunity to review the draft wording is when it is published in the Canada Gazette Part I, it would be a missed opportunity to engage in meaningful dialogue that would strengthen the regulation to enhance public safety.

**2. Ongoing Monitoring of Land**

The proposed amendments would require "ongoing monitoring of the use of the land on which the pipeline is located and the land adjacent to the pipeline right-of-way." CEPA is concerned with the ambiguity of this proposed amendment. It is critical that this amendment does not require a level of monitoring that is not practical or necessary to ensure pipeline integrity and public safety.

### 3. Ongoing emergency responder education

CEPA believes it is the pipeline company's responsibility to promote awareness and educate the public to dig safely. CEPA believes however, the inclusion of the requirement relating to ongoing emergency responder education within the damage prevention regulations would be a duplication of section 35 of the OPR.

### 4. Goal Vs. Prescriptive Regulation

CEPA acknowledges and supports the NEB's continued path towards goal-oriented regulation. In the context of the proposed amendments, CEPA urges the NEB to aim to develop a blend of goal-oriented regulations and prescriptive regulations as it drafts specific wording for the proposed amendments.

CEPA member companies routinely work alongside the excavating community (e.g., individual contractors, municipal departments) and expect that this community would appreciate prescriptive rules to plan and perform their work in a consistent and safe manner. To this end, CEPA recommends the regulatory amendments offer a blended approach between goal-oriented and prescriptive regulation whereby regulatory text specifically directed toward third parties is prescriptive and regulatory text directed toward pipeline owners and operators is goal-oriented.

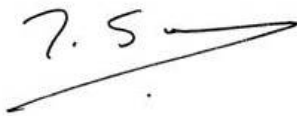
### Recommendations

In summary, CEPA has two recommendations for the NEB's consideration:

1. We recommend that the NEB provide the draft wording of the proposed changes for review and comment prior to publishing in the Canada Gazette Part I. The ability to review the draft regulation would give an opportunity to provide meaningful comment on the proposed regulation.
2. As the NEB moves to draft the specific wording, we urge the NEB to develop goal-oriented regulations as they apply to the pipeline companies and prescriptive regulatory text specifically directed toward third parties.

The NEB is in a unique position to provide leadership necessary among regulators of buried pipeline infrastructure in Canada in respect of the development and implementation of a damage prevention framework. Thank you for this opportunity to provide comments. CEPA and its member companies look forward to continuing our dialogue on regulatory and operational matters as the NEB moves forward with development of the damage prevention regulations.

Sincerely



Ziad Saad  
VP, Safety & Sustainability