



File Ad-GA-ActsLeg-Fed-NEBA-RRG-DPR 0201
8 January 2016

Dear Chief/CEO/President:

Information about the *Pipeline Safety Act* and the National Energy Board's Pipeline Damage Prevention Regulations

I am writing to provide you with information on regulatory proposals being developed by the National Energy Board (NEB) under the *Pipeline Safety Act*. I have included below some information on the *Pipeline Safety Act*, as well as some details on the process to comment on the draft regulatory proposals, should you be interested.

As you may know, the *Pipeline Safety Act* was introduced in Canada's Parliament last year to strengthen the pipeline safety. It received Parliamentary approval (Royal Assent) on 18 June 2015, and will come into force one year later, in June 2016.

The NEB is an independent federal regulator of several parts of Canada's energy industry with the safety of Canadians and protection of the environment as its top priority.

As a result of the *Pipeline Safety Act*, the NEB is required to update its regulations that prevent damage from occurring to pipelines.

Currently, the NEB's damage prevention regulations require that anyone planning an activity near a pipeline such as: excavation with power-operated equipment within 30 metres of a pipeline, or construction of a building over a pipeline, must have permission from the pipeline company. The regulations provide conditions that must be met when carrying out activities near a pipeline, to ensure the protection of people and the environment.

The *Pipeline Safety Act* makes changes to the pipeline damage prevention sections in the NEB Act. It introduces the term "ground disturbance" in place of the phrase "excavate using power-operated equipment or explosives". The *Pipeline Safety Act* also introduces the term "prescribed area". This is the area near a pipeline, which is to be set out in NEB regulations, where certain steps need to be taken before ground disturbances can be carried out.

The NEB's damage prevention regulations must be updated to reflect these changes to the *Pipeline Safety Act*, and be in place in June 2016, when the *Pipeline Safety Act* comes into force.

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These include building in damage prevention best practices and clearer safety requirements.

Process to Provide Comments

The NEB, as the federal agency responsible for developing damage prevention regulations, has developed the attached overview to describe the proposed changes.

If you have comments on the information in this letter or the attached overview, please submit them in writing to the NEB at the address below. All comments received concerning the updates to the NEB's damage prevention regulations will be posted on the NEB website, and will be considered in the ongoing development of the regulations.

NEB Pipeline Damage Prevention Regulations
Sheri Young, Secretary of the Board
National Energy Board
517-10th Avenue SW
Calgary, AB T2R 0A8
Fax: 403-299-5503 / Fax (toll free): 1-877-288-8803
Email: damagepreventionregs@neb-one.gc.ca

In terms of the general process for regulatory development, once the draft regulations are developed and approved by the Government for pre-publication (for public comment), the draft regulations would be posted in the Canada Gazette Part 1 for a 30 day comment period. Exact timing is not confirmed. The NEB will send a letter to you when the draft regulations are posted to provide you with information on how you can find them and make comments.

For more information about the NEB's damage prevention regulations, please contact Shannon Neufeld at 403-299-2778 (toll free: 1-800-899-1265) or by email at shannon.neufeld@neb-one.gc.ca.

Safety is a key priority of the NEB and it oversees safety for the full lifecycle of the pipelines we regulate – from project proposal to construction and operation and through to abandonment. At any time, the NEB welcomes any input or feedback you may have as the NEB works to continually improve its regulatory framework.

Yours truly,

Original signed by L. George

for
Sheri Young
Secretary of the Board

Attachments

Attachment 1

Update to the National Energy Board's Damage Prevention Regulatory Framework Amendments for the NEB's Damage Prevention Regulations

Background

In the National Energy Board's (NEB) Damage Prevention Regulatory Framework, the responsibility to prevent pipeline damage is shared between anyone who plans to undertake construction or excavation near a pipeline and the pipeline company. Pipeline companies are required to ensure that people know how to safely conduct activities that involve excavation and construction near pipelines, and people planning these types of activities near pipelines are required to confirm the location of pipelines with the pipeline companies, and obtain their permission, before they start activities near pipelines.

The NEB provides regulatory oversight of both, and must create a damage prevention framework necessary to hold people and companies accountable to carry out these responsibilities. The NEB's compliance verification, enforcement, and stakeholder engagement activities support this framework and are used to promote safety and environmental protection.

The *Pipeline Safety Act* received royal assent on 18 June 2015. The *Pipeline Safety Act* amendments to the *National Energy Board Act* will be in force within one year of that date. Due to the *Pipeline Safety Act* amendments to the *National Energy Board Act*, the NEB must update its pipeline damage prevention regulations by June 2016. The regulations affected are the:

- *National Energy Board Pipeline Crossings Regulations, Part I* (PCR I)
- *National Energy Board Pipeline Crossings Regulations, Part II* (PCR II)
- *National Energy Board Administrative Monetary Penalties Regulations* (AMPs)

These regulations can be found at www.neb.one.gc.ca/About Us/Acts and Regulations.

Updates to the Damage Prevention Regulatory Framework

There are three main areas of the Damage Prevention Regulatory Framework that will be updated:

1. Modernizing the regulatory language. An example of this can be found in PCR I, section 4. In section 4, there is an exemption-based structure where 'Leave of the Board' is not required to undertake certain activities provided a series of specific conditions and circumstances are met. Writing this section of the regulation in a modern way would require a positive structure. This means that certain activities will be authorized through the regulations. For example, construction of facilities may be authorized if the party wanting to undertake the activity conforms to the measures outlined in the regulations. An example of such a measure would be the need to complete the facility construction within two years after the date of receiving the pipeline company written permission.

2. Amending the regulations to reflect the legislative changes made to the *National Energy Board Act* by the *Pipeline Safety Act*. These include:
 - a. removing the term 'excavation' and replacing it with the broader term 'ground disturbance'¹ (legislative definition provided below);
 - b. defining the term 'prescribed area' in which unauthorized ground disturbances are prohibited;
 - c. identifying the measures required to be met in order to safely construct a facility on, across, along or under a pipeline or engage in an activity that causes a ground disturbance within the prescribed area; and
 - d. identifying the measures to be met in order to safely cross a pipeline by vehicle or mobile equipment.

3. Amending the regulations to reflect the results from the last public consultation period conducted in September 2014. These include adding:
 - a. a damage prevention program requirement to the Onshore Pipeline Regulations for NEB-regulated pipeline companies to develop, operate and maintain within their management system
 - b. a requirement for third parties to initiate a locate request with their local one-call centre before commencing any ground disturbance (PCR I);
 - c. a requirement for NEB-regulated pipeline companies to be members of one-call centres where they operate a pipeline (PCR II); and
 - d. the intent the NEB's Exemption Order MO-21-2010 (Low Risk Crossings by Agricultural Vehicles) into the regulations. [[Filing A27788](#)]

¹ The phrase 'excavation within 30 metres of the pipeline using power equipment or explosives' has been replaced by "ground disturbance" as defined in the *Pipeline Safety Act* (s.2):

"ground disturbance"

"ground disturbance" "ground disturbance" does not include a ground disturbance caused by

(a) any activity that is specified in the orders or regulations made under subsection 112(5),

(b) cultivation to a depth of less than 45 cm below the surface of the ground, or

(c) any other activity to a depth of less than 30 cm and that does not result in a reduction of the earth cover over the pipeline to a depth that is less than the cover provided when the pipeline was constructed

Attachment 2 Major pipeline systems regulated by the NEB



NGTL: NOVA Gas Transmission Ltd.

TCPL: TransCanada PipeLines

TQMP: Trans Québec & Maritimes Pipeline

M&NP: Maritimes & Northeast Pipeline Management