

National Energy  
Board



Office national  
de l'énergie

# Regulations for Pipeline Damage Prevention

Proposed regulations in  
*Canada Gazette, Part I*

March 2016

Canada<sup>ca</sup>

# Overview

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- Purpose
- Introduction to National Energy Board (NEB)
- Pipeline damage prevention – a shared responsibility
- NEB Damage Prevention Framework
- *Pipeline Safety Act*
- Proposed regulatory amendments
- Implementation
- Next steps



# Purpose – Canada Gazette, Part I

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- ❑ The purpose of this session is to provide information on the proposed amendments to the NEB's regulations for damage prevention
- ❑ The proposed regulations are published in *Canada Gazette*, Part I for a 30 day comment period: 19 March – 18 April 2016
  - Posted on NEB website at: Safety and Environment / Damage Prevention / National Energy Board Pipeline Crossing Regulations Part I and Part II, Related Orders and Guidance
- ❑ If you would like to provide comments on the proposed regulations, please submit them in writing to the address provided in the Notice published in the Canada Gazette or on the website, and included at the end of this slide deck
- ❑ All comments on the proposed regulations will be posted on the NEB's website
- ❑ Comments submitted will be considered in the ongoing development of the regulations



# Introduction to the NEB

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- ❑ The NEB regulates the construction, operation, and abandonment of energy infrastructure such as oil and gas pipelines.
  - Regulates pipelines crossing provincial or international borders
  - Regulates approximately 73,000 km of pipeline across Canada
- ❑ The NEB oversees pipeline safety for the full lifecycle of the pipeline.
- ❑ Authority under the *National Energy Board Act* for NEB to create regulations.



# Major pipeline systems regulated by the NEB



# Roles in Pipeline Damage Prevention

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Pipeline damage prevention is a shared responsibility:

- Pipeline companies
  - Public awareness obligations
  - Conditions for permission to conduct an activity near a pipeline
- Persons working near pipelines
  - Must be aware of their responsibilities, legal requirements
  - Follow the rules for safety of people and protection of the environment
- NEB
  - Provide regulatory oversight (regulations, compliance and enforcement)
  - Provide information, guidance, education, awareness
  - Member of the damage prevention community of practice
    - Canadian Common Ground Alliance



# NEB Damage Prevention Framework – Existing Regulations

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## 1. *Pipeline Crossing Regulations, Part I*

- Contains the responsibilities of those wishing to conduct an activity near a pipeline

## 2. *Pipeline Crossing Regulations, Part II*

- Contains the responsibilities of pipeline companies for managing any activities planned near a pipeline

## 3. *National Energy Board Onshore Pipeline Regulations (OPR)*

- Contains pipeline company management system program requirements for safety, security and protection of the environment

## 4. *Administrative Monetary Penalties Regulations (National Energy Board) (AMPs)*

- Administrative monetary penalties to pipeline companies or individuals for non-compliance with the NEB Act, regulations, decisions, permits, orders, licenses or certificate conditions



# NEB Damage Prevention Framework – Existing Regulations

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- Leave of the NEB is required to:
  - excavate using power-operated equipment or explosives within 30 metres of a pipeline
  - undertake construction of a facility across, on, along, or under a pipeline

unless the requirements outlined in PCR I can be met, including pipeline company permission
  
- Requirement to obtain permission of the pipeline company to cross the pipeline
  
- Companies required to have a Public Awareness Program
  
- Exemption order - agricultural crossings if certain low-risk conditions are met [MO-21-2010]





# Updates to NEB's Damage Prevention Regulations - Previously Proposed Amendments

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- Requirement for companies to have a Damage Prevention Program
  - Includes additional details for Public Awareness Program
  
- Requirement for NEB-regulated companies to be members of one-call centres
  
- Requirement for anyone planning construction or excavation activities near a pipeline to contact a one-call centre



# Updates to NEB's Damage Prevention Regulations – *Pipeline Safety Act*

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## □ *Pipeline Safety Act*

- Amends the NEB Act for damage prevention requirements
- Became law on 18 June 2015
- Changes to damage prevention requirements will come into force within one year



# *Pipeline Safety Act*

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Changes to the NEB Act related to damage prevention include prohibitions against:

- ❑ ground disturbances within the prescribed area *unless* authorized by Board orders or regulations
- ❑ construction of a facility across, on, along or under a pipeline *unless* authorized by Board orders or regulations
- ❑ crossing a pipeline with a vehicle or mobile equipment *unless* authorized by Board orders or regulations or if done along the travelled portion of a highway or public road



# *Pipeline Safety Act*

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- ❑ Introduces the term “ground disturbance” to legislation (section 2)
  - Ground disturbance does not include:
    - ❑ cultivation to a depth of less than 45 cm below the surface of the ground, or
    - ❑ any other 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
    - ❑ any activity that is specified in the orders or regulations made under subsection 112(5) of the NEB Act



# *Pipeline Safety Act*

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- Introduces the term “prescribed area”
- Provides that the NEB may set out the prescribed area in regulations



# Proposed Regulatory Amendments

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- ❑ *NEB Pipeline Damage Prevention Regulations – Authorizations*
- ❑ *NEB Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*
- ❑ *Regulations Amending the NEB Onshore Pipeline Regulations*
- ❑ *Regulations Amending the Administrative Monetary Penalties Regulations (National Energy Board)*



# *NEB Pipeline Damage Prevention Regulations – Authorizations*

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Would replace the current *Pipeline Crossing Regulations, Part I*

- Still contains the responsibilities of those wishing to conduct an activity near a pipeline, and the conditions they must meet
- The conditions are largely maintained, such as:
  - Must obtain company consent
  - Must follow company safety measures and technical requirements



# *NEB Pipeline Damage Prevention Regulations – Authorizations*

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Crossing a pipeline with a vehicle or mobile equipment is prohibited unless authorized by Board order or regulation

- Draft regulations authorize crossings to which the pipeline company consents
- Draft regulations contain conditions for vehicles or mobile equipment used for agricultural purposes to cross a pipeline without specific company consent:
  - If loaded axle weight and tire pressure are within manufacturer's approved limits
  - Point of crossing has not been identified by the company as unsafe





# *NEB Pipeline Damage Prevention Regulations – Authorizations*

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What is new:

- Provides the prescribed area
  - A strip of land measured 30 metres perpendicularly on each side from the centreline of a pipe
  - Persons wishing to conduct a ground disturbance activity within the prescribed area, must meet the conditions in the regulation or obtain a Board order
- Pipeline companies conducting ground disturbance activities within the prescribed area must also meet requirements outlined in regulations:
  - Examples: Must be acting under an NEB authorization; must conduct a locate request



# *NEB Pipeline Damage Prevention Regulations – Authorizations*

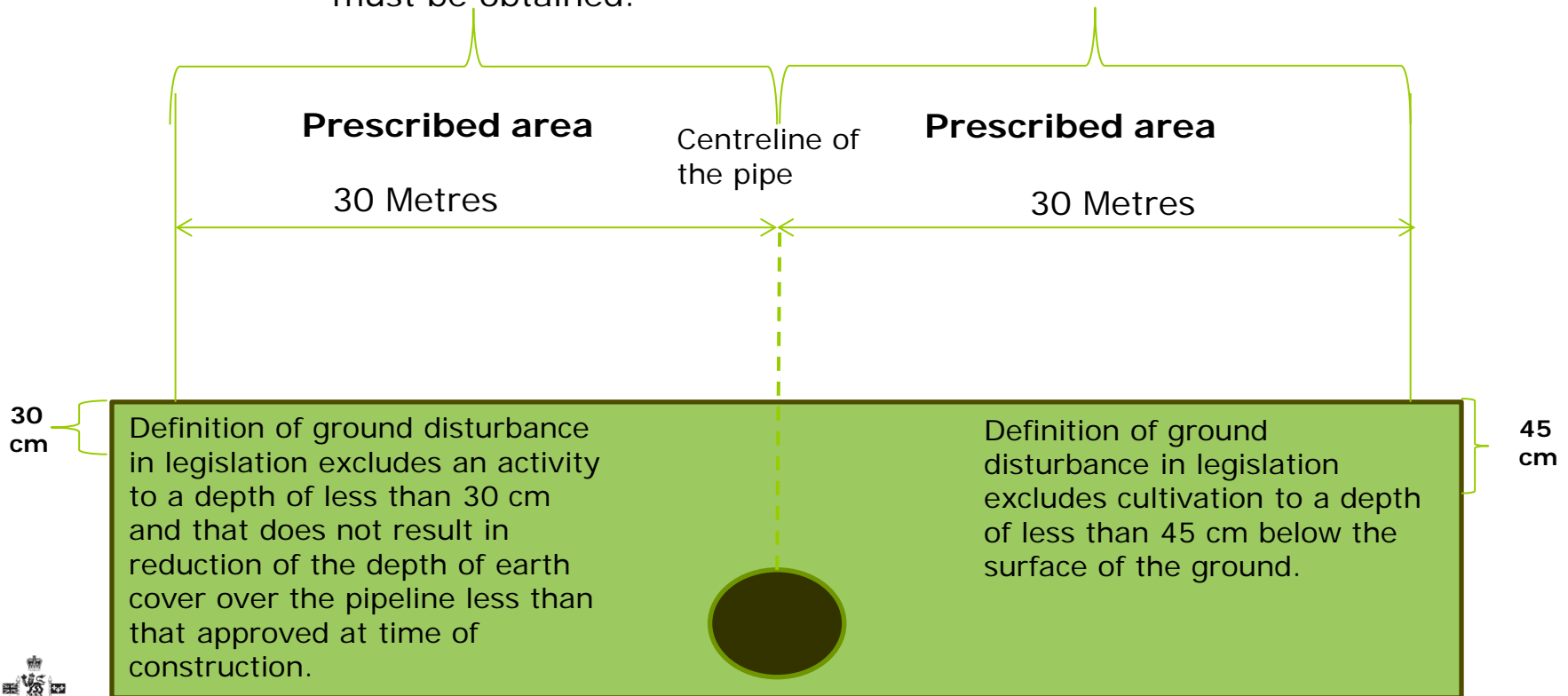
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- Applications for authorizations
  - If consent cannot be obtained from the pipeline company, or conditions cannot be followed, may apply to the Board
    - Similar to current regulatory regime
    - If approved, the Board would issue an order with a decision and conditions
  
- Existing permissions
  - Transitional clauses for existing permissions, to allow permitted activities to continue



# Prescribed Area

For any planned ground disturbance in the prescribed area, authorization is required. Conditions in damage prevention regulations must be met, or a Board Order must be obtained.



# Ground Disturbance

□ Examples of activities that could cause a ground disturbance:

- *digging*
- *excavation*
- *trenching*
- *ditching*
- *tunneling*
- *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*

Ref: CSA Z247-15 *Damage Prevention for the Protection of Underground Infrastructure*

Reminder that ground disturbance does not include:

- cultivation to a depth of less than 45 cm below the surface of the ground, or
- any other 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



# *NEB Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*

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Would replace the current *Pipeline Crossing Regulations, Part II*

- Still contains the responsibilities of pipeline companies for managing any activities planned near a pipeline
  - Example: For persons wishing to conduct an activity in the prescribed area, the company must provide safety measures and technical requirements, should consent be given



# *NEB Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*

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What is new:

- Outlines what a Damage Prevention Program (to be required under the amended *Onshore Pipeline Regulations*) must include:
  - Company's Public Awareness Program to inform the public which must include:
    - How to work safely near a pipeline
    - How to report an emergency, or any contact with a pipeline
    - How to use the services of a one-call centre
    - The necessity for authorization for activities near a pipeline
    - Requirement to make a locate request
    - The information to be provided in a request for consent to conduct activities around a pipeline



# *NEB Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*

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A Damage Prevention Program must also include:

- ongoing monitoring of land use and land ownership changes near a pipeline
- a process for timely responses to locate requests
- standards for locating pipelines
- a process for managing requests for consent under the regulations



# One-call Centre Requirements

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## Requirement under the DPR - Authorizations

- Anyone planning construction or ground disturbance near a pipeline will be required to contact a one-call centre, where it exists, and where there is no one-call centre, contact the pipeline companies directly

## Requirement under the DPR – Obligations of Pipeline Companies

- NEB regulated companies will be required to become members of one-call centres where they exist

### A one-call centre:

- (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.





# *Regulations Amending the NEB Onshore Pipeline Regulations*

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- Damage Prevention Program
  - Companies must have a formal damage prevention program within their management systems
    - Plan – Do – Check – Act
    - Includes processes for identifying hazards, managing risks, developing controls, monitoring, and improving



# *Regulations Amending the Administrative Monetary Penalties Regulations (NEB)*

- ❑ *Administrative Monetary Penalties Regulations (National Energy Board)* (AMPs) would be amended to reflect the changes in the proposed regulations
- ❑ Changes to AMPs to reflect violations in the proposed regulations
  - Examples:
    - ❑ Failure of a pipeline company to belong to a one call centre
    - ❑ Failure of a person to follow a prescribed measure with respect to an activity that causes a ground disturbance within the prescribed area



# Implementation

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- NEB's guidance materials will be updated
  - Adding specific guidance for the DPRs
  - Educational booklets and pamphlets
  - Web pages
  - Filing manual
  
- NEB will conduct ongoing damage prevention engagement



# Next Steps

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- ❑ If you have comments on the proposed regulations, please reference the Canada Gazette issue and date (19 March 2016, Vol. 150, No. 12), and submit them in writing, by email, fax or mail, by 18 April 2016 to:

Chantal Briand, Regulatory Approaches

National Energy Board

517 Tenth Avenue SW

Calgary, AB, T2R 0A8

Fax: 403-299-5503

Toll free fax: 1-877-288-8803

Email: [damagepreventionregs@neb-one.gc.ca](mailto:damagepreventionregs@neb-one.gc.ca)

- ❑ All comments received will be posted on the NEB's website

