



File Ad-GA-RG-CR 0401
8 January 2018

To: Canadian Energy Pipeline Association, Canadian Association of Petroleum Producers,
NEB Cost Recovery Liaison Committee, NEB regulated companies

30-Day Comment Period on Regulatory Proposal – NEB Designated Company Cost Recovery Regulations

The National Energy Board (NEB or Board) has released the enclosed Regulatory Proposal to seek feedback on the design of future regulations for cost recovery from companies who may be designated under the *National Energy Board Act* ([NEB Act](#)) with respect to a release.

The [Pipeline Safety Act](#) (PSA) came into force on 19 June 2016. The PSA amended the [NEB Act](#) to reinforce the “polluter pays” principle by, among other things, imposing financial requirements on pipeline companies in respect of an unintended or uncontrolled release of oil, gas or any other commodity (NEB Act sections 48.12 to 48.17).

In the event of a release, the Governor in Council may, on the recommendation of the Minister of Natural Resources, “designate” the responsible company if the company does not have, or is not likely to have, the financial resources necessary to pay the costs, expenses and damages associated with the release, or the company does not comply with an NEB order with respect to the release. Designation could occur immediately, or any time after a release in the event that a company is unable to pay for compensation that is in the process of being settled or unwilling to continue to follow Board orders with respect to the release.

The Minister of Finance, on the recommendation of the Minister of Natural Resources, is authorized to establish an amount to be paid out of the Consolidated Revenue Fund to fund NEB directed activities related to a designated company release.

As provided in the NEB Act, subject to Treasury Board’s approval, the Board shall make the regulations for the purposes of recovering these amounts. Amounts are to be recovered from the designated company and the companies who operate pipelines that transport the same commodity (e.g. oil, gas and non-hydrocarbon) or a commodity of the same class (e.g. liquids vs gases) as the commodity that was released. The manner by which such companies will be grouped and subsequently invoiced is the subject of the enclosed Regulatory Proposal.

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The Board is seeking feedback in writing on the Regulatory Proposal by 7 February 2018. Comments may be provided electronically, in hard copy by mail, or by fax and sent to the contact information below:

Designated Company Cost Recovery Regulations
National Energy Board
Suite 210, 517 Tenth Avenue SW
Calgary, AB T2R 0A8
Facsimile 403-292-5503
Toll free facsimile 1-877-288-8803
Email designatedcompany@neb-one.gc.ca

Feedback submitted to the Board will be considered in the development of the regulations, which would also be pre-published in the *Canada Gazette*, Part I, for a 30 day comment period. Information concerning the *Canada Gazette*, Part I comment period will be posted on the NEB's website, under the 'What's New?' section at a later date.

For more information on the Regulatory Proposal or to further discuss its contents, please contact Rumu Sen (rumu.sen@neb-one.gc.ca) (toll- free 1-800-899-1265).

Yours sincerely,

Original signed by

Sheri Young
Secretary of the Board