



June 17, 2022

Mr. Dan Barghshoon
Canada Energy Regulator
opr-rpt@cer-rec.gc.ca

Dear Mr. Barghshoon:

**Government of the Northwest Territories'
Feedback Onshore Pipeline Regulations Review - Discussion Paper**

On behalf of the Government of the Northwest Territories (GNWT), I am providing you with feedback on the Canada Energy Regulator's (CER) Onshore Pipeline Regulations (OPR) Review - Discussion Paper. Specific feedback was received from the Departments of Lands; Environment and Natural Resources; and Industry, Tourism, and Investment.

The GNWT's comments, as attached, include comments specific to northern context, regulatory improvement and around Indigenous Engagement. As CER is the regulator for oil and gas activities in the Inuvialuit Settlement Region (ISR) under the Northwest Territories' *Petroleum Resource Act* and *Oil and Gas Operations Act*; the GNWT would appreciate your opinion on the following questions:

1. How do the CER Onshore Pipeline Regulations apply in the onshore ISR, if at all?
2. Would they only apply in trans-boundary, including the boundary between onshore and offshore, and Subsea Pipelines?

The GNWT would be happy to continue to support the review of the OPR and other CER regulatory changes. If CER has any questions or concerns or requires additional information, please contact Ms. [REDACTED] Senior Resource and Policy Analyst, at [REDACTED]

Sincerely,

[REDACTED]
Assistant Deputy Minister
Mineral and Petroleum Resources
Industry, Tourism, and Investment

Attachment [REDACTED]

Comment #	Topic	Comment	Recommendation
1	<p>Section 2: Reconciliation with Indigenous Peoples</p> <p>Question 4: How can the OPR contribute to the protection of traditional land and resource use, and sites of significance for Indigenous peoples on a pipeline right-of-way, during construction, and operations and maintenance activities? - NWT perspective</p>	<p>Regional land use planning in the Northwest Territories (NWT) is typically a shared responsibility between Indigenous governments and Indigenous organizations, Government of the Northwest Territories (GNWT), and the Government of Canada. The GNWT considers regional land use plans to be the primary instrument to define where certain activities can take place.</p> <p>NWT's regional land use plans document the values of Indigenous people and are a key way to ensure that community values are respected during the regulatory process.</p> <p>The Inuvialuit Settlement Region utilizes non-legally binding community conservation plans and regional strategic environmental assessments to guide development.</p> <p>The Gwich'in and Sahtu regions have legally-binding land use plans.</p> <p>The Tłı̄chǫ Land Use Plan was prepared by the Tłı̄chǫ Government (self-government) to apply to Tłı̄chǫ Lands.</p> <p>GNWT, Canada, and Dehcho First Nations are drafting a plan for the Dehcho region. Planning processes for the southeast NWT and public lands in Wek'èezhì are currently under development.</p>	<p>Regulators and proponents should review NWT's regional land use plans (where available) when planning and developing pipelines. Depending on the land use plan, some plans may be legally binding, while others are advisory in nature.</p>
2	<p>Section 2: Reconciliation with Indigenous Peoples</p> <p>Question 2: How can the OPR contribute to the advancement of Reconciliation with Indigenous people?</p> <p>Section 3: Engagement and Inclusive Participation</p> <p>Question 7: How can the OPR support collaborative interaction between companies and those who live and work near pipelines?</p>	<p>Engagement with Indigenous peoples prior to planning and during all stages of a pipeline lifecycle is necessary, not just a best practice.</p>	<p>To improve the regulations, CER should require the proponent to engage with Indigenous governments and Indigenous organizations. Engagements should include a log of comments, concerns and issues, and include a feedback mechanism to describe how the proponent is addressing these identified issues. These documented actions should be included as part of the proponent's application package to receive authorizations.</p> <p>Engagement should continue through the life of the project and be reported on regularly, such as with an annual report.</p>
3	<p>Section 3: Engagement and Inclusive Participation</p> <p>Question 7: How can the OPR support collaborative interaction between companies and those who live and work near pipelines?</p>	<p>GNWT acknowledges the CER public registry, but there is room for improvement.</p> <p>Meaningful public notification and request for comment, including information sessions and technical discussion, similar to what is done under the <i>Mackenzie Valley Resource Management Act</i> are needed.</p> <p>Public comment on authorization is only one part. Mechanisms for public comment on plans, submissions, monitoring reports, etc. could be strengthened.</p>	<p>It is recommended that the public registry send notifications for new files on selected projects and for new applications, by region or by province/territory. This would ideally be a subscription that individuals could opt into and the system would send automatic alerts for new items or applications.</p> <p>The regulations should require for CER to make a proponent's plans available for public review, prior to approval by CER. This allows for public consideration of such issues as emergency response, spill contingency, closure/abandonment considerations, to name a few.</p>

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4	<p>Section 3: Engagement and Inclusive Participation</p> <p>Question 9: How could the CER improve transparency through the OPR?</p> <p>Question 12: How can the OPR support innovation, and the development and use of new technologies or best practices?</p>	<p>Transparency could be improved by ensuring spills and leaks are detected rapidly and that notice is being provided to communities and interested parties in the region in a timely manner. Innovation and development of new technologies and best practices could improve this.</p> <p>Best practices in remediation, include developing remediation objectives in general and specific to projects. Further discussion on remediation objectives around pipeline decommissioning is needed.</p>	<p>It is recommended that regulations include industry-leading safety requirements for pipeline integrity, inspection and reporting. The regulations should also require that security be posted to cover all liabilities for a project, including clauses for clean-up of contaminated soil, and repairing disturbances.</p> <p>When it comes to addressing liabilities, it is recommended to have broader discussion on the process and method of leaving pipelines in place, once decommissioned. There may be times when the removal would cause more harm than good but there are also other times when removal is warranted.</p>
5	<p>Section 2: Reconciliation with Indigenous Peoples</p> <p>Question 6: How can the OPR address participation of Indigenous people in pipeline oversight?</p>	<p>Inspection frequency can be improved, as can the reporting on results of inspections to local Indigenous governments and Indigenous organizations.</p>	<p>Regulations should include mandatory inspection frequency, with required reporting to local Indigenous governments and Indigenous organizations on the findings of these inspections.</p>
6	<p>Section 2: Reconciliation with Indigenous Peoples</p> <p>Question 4: How can the OPR contribute to the protection of traditional land and resource use, and the sites of significance for Indigenous peoples on a pipeline right-of-way, during construction and operations and maintenance activities?</p> <p>Question 6: How can the OPR address the participation of Indigenous people in pipeline oversight?</p>	<p>Continued engagement throughout the lifetime of a project is important for reconciliation and is a best practice. Immediate notifications regarding spills are an important part of this.</p>	<p>Inspection frequency should be based on specific metrics, such as the age of the infrastructure and environmental factors in the region.</p> <p>There should be requirements in the regulations for regular meetings with communities along the pipeline's path, to answer questions and respond to inquiries. Additionally, there should be requirements regarding clear and immediate communication with local land owners, communities and the public about any spills.</p>
7	<p>Section 4: Global Competitiveness</p> <p>Question 11: How can the OPR support a predictable and timely regulatory system that contributes to Canada's global competitiveness?</p>	<p>Periodic or ongoing review of regulations is important to maintain a relevant and effective regulatory framework that responds to emerging issues, changing technologies and societal expectations. The regulations play an important role in determining how Canada's resources are developed. The right policies and plans will provide the right pathways to developers to overcome challenges.</p> <p>It is important that the regulatory framework does not add additional barriers or deterrents to developments through requirements that impose unreasonable burden, inefficiencies, and cost without adding value.</p> <p>Certainty in a regulatory framework and subsequent status approvals play a key role in advancing investment decisions in Canada. It is therefore important that any adjustments to the pipeline regulations contribute to certainty for developers.</p>	<p>It is recommended that adjustments to the pipeline regulations take into account certainty for developers.</p>
8	<p>Section 4: Global Competitiveness</p>	<p>The OPR as a set of regulations can be used to support innovation, the development of new technologies and the adoption of best practices by focusing in advancing these aspects:</p>	<p>It is recommended that CER consider these factors when developing the regulations.</p>

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	Question 12: How can the OPR support innovation, and the development and use of new technologies or best practices?	<ul style="list-style-type: none"> • Lower cost of doing business. • Lower the environmental impact • Attracting research and development activities regarding pipelines technologies. • Integration of Science and traditional knowledge (Indigenous knowledge) into regulatory processes. <p>In addition, those aspects can be integrated with provincial and territorial governments to reach a common ground to provide regulated companies with incentives to optimize the pipeline operational cycles.</p>	
9	Section 4: Global Competitiveness	GNWT believes the current metrics are sufficient.	N/A
10	Question 13: What company-specific or industry-wide performance metrics could the CER consider supporting enhanced oversight and transparency for CER-regulated facilities? Section 4: Global Competitiveness	GNWT recommends the integration of centralized oversight and data collection centers to manage compliance. Innovation can play a big role in data optimization, trend analysis, and data analytics. The upside of digitalization of CER management system is that it can expose possible gaps in regulatory compliance or in the regulations itself.	N/A
11	Section 4: Global Competitiveness Question 15: How can the OPR be improved to address changing pipeline use and pipeline status?	<p>Completing pipelines, or any development, in northern regions, especially in the Arctic, comes with a suite of challenges to overcome. These limitations are due to the extreme weather conditions, long distances, sensitive environment, underdeveloped infrastructure, and sparse population.</p> <p>The current OPR does not address the challenges in the NWT. As the current regulation allows the discretion of the regulator regarding best practices, the GNWT would appreciate the consideration for higher standards due to the fragile nature of the Arctic region.</p>	<p>GNWT recommends an Arctic specific set of guidance. This would result in:</p> <ul style="list-style-type: none"> • More stringent review processes and oversight for Arctic operations. • Informing regulated companies of the challenges and providing regulatory process reassurances in terms of transparent regulations, expected standards and approval processes. • Re-evaluation of pipeline class status and all associated risk assessments. The NWT is mostly a remote area, however, the costs associated with a spill in the region could be astronomical. • Taking climate change into consideration, as the Arctic region is warming up two to four times faster than the rest of the world. • Integration between pipeline digital monitoring with a physical inspection in a manner that is suitable for the weather conditions of the Arctic regions. <p>The Arctic regions specific guidance should cover guidance specific to pipeline leak detection that integrates a risk-based management processes for monitoring, operations, variable uncertainties, pollution control and leak detectability under extreme weather conditions.</p>
12	Section 5: Safety and Environmental Protection	The regulatory regime in the NWT differs from that in southern Canada.	GNWT recommends using special guidance and regulatory provisions for the unique

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	Question 16: What further clarification, in either the OPR (e.g., structure or content), or in guidance, would support company interpretation and implementation of management system requirements?		conditions of NWT. In addition, CER regulatory system should seek opportunities to link with existing NWT based regulatory system to avoid duplications of efforts.
13	Section 5: Safety and Environmental Protection Question 17: How should information about human and organizational factors, including how they can be integrated into a company's management system, for both employees and contractors, be provided in the OPR, and/or described in related guidance? <ul style="list-style-type: none"> • identification of all types of hazards including those related to hardware, software, environment, human limitations, and organizational functioning and effectiveness; • continual learning and improvement; and • development and maintenance of a robust culture of safety across regulated companies, for both employees and contractors. 	The GNWT recognizes that pipeline construction in Arctic and northern environments are more challenging than in other climates.	GNWT recommends CER conduct a risk assessment addressing the unique risks that pipeline construction may encounter in the NWT. This should include design considerations for Arctic and northern surface pipelines put on piles, (which may obstruct migration routes of local wildlife) and entrenched pipelines (which may face a whole different set of challenges which is not limited to buckling due to permafrost thaw, ice gouging, scouring and frost heave). There are also challenges with respect to monitoring and maintenance activities due to the challenging weather conditions. It is recommended that the regulations reflect the challenges that may occur during pipeline commissioning and operation cycles and set a qualitative measure to identify gaps with a goal to avert associated risks.
14	Section 5: Safety and Environmental Protection Question 18: How can the OPR improve the connection between company safety manuals and the overarching Safety Management Program, for both employees and contractors?	Company management programs, environmental protection plans, along with other requirements to comply may be sufficiently protective.	It is recommended additional clear guidance is developed regarding activity monitoring and behavioral assessment requirements to assure better compliance of employees and contractors.
15	Section 5: Safety and Environmental Protection Question 21: How should the OPR include more explicit requirements for process safety?	The OPR should include explicit requirements for process safety in the NWT.	The process safety needs of the NWT are as follows: <ul style="list-style-type: none"> • Management Plan audit frequency to be increased in the Arctic and northern regions • Consulting local communities and integrating their knowledge in terms of hazards or risks in the region. • Taking into consideration potential challenges and risks in working in the arctic and northern environment from personnel, design factors and risk events. • Considering the implications of the pipeline related operations on the environment. • Upgrading the codes, standards, and guidance documents to meet the operation requirement of the region.

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16	<p>Section 5: Safety and Environmental Protection</p> <p>Question 22: How can the OPR drive further improvement to the environmental performance of regulated companies?</p>	<p>Operating in Arctic and northern regions can have high risks.</p>	<p>GNWT recommends use of outcome-based regulations with clear guidance regarding operating in the Arctic and northern regions. The focus is to minimize potential risks. In addition to specific directives and requirements documents to addressing compliance, monitoring, and risk mitigation.</p>
17	<p>Section 5: Safety and Environmental Protection</p> <p>Question 24: How can contaminated site management requirements be further clarified, in the OPR or in guidance?</p>	<p>The OPR does not provide clear requirements for contaminated sites, while it may be covered under the environmental protection program to manage such sites. There are many risks associated with liability and regulated company financial capacity to deal with such challenged in the Arctic and northern regions.</p>	<p>Given our experience with sump work in the NWT, GNWT recommends a thorough review of this critical activity and associated regulation regarding operations in the Arctic and northern regions. The implications in the Arctic environment would be much different than elsewhere in the country. It is recommended that specific regulation, policy and/or guidance be developed to help identify contaminated sites, CER jurisdiction over the land and subsequent provisions regarding responsibility, insurance, financial liability, etc., specific to Arctic and northern regions.</p>
18	<p>Section 5: Safety and Environmental Protection</p> <p>Question 25: Are there any matters related to the Emergency Management Program in the OPR that require clarification? If so, what are they? Are there any matters for which further guidance is required?</p>	<p>We find it sufficient.</p>	
19	<p>Section 5: Safety and Environmental Protection</p> <p>Question 26: How could the requirement for a Quality Assurance Program be improved or clarified in the OPR?</p>	<p>The current OPR requires the program to cover the pipe and its components meet specifications.</p>	<p>We would like to see the Quality Assurance program extended to other aspects of the operational project cycle to include design considerations, various operational specifications, and plans. The use of qualitative analysis and quality management throughout the project's cycle to improve the confidence and reliability of the outcome. The qualitative analysis would help assess the regulations administration, behavioral compliance, and performance outcome.</p>
20	<p>Section 5: Safety and Environmental Protection</p> <p>Question 27: How can the OPR incorporate the key issues identified in the Safety Advisory regarding the strength of steel and the relative strength of the weld area?</p>	<p>Arctic and northern regions may have different operational requirements related to pipe design (insulation, trenching, material requirements, operating pressures, inspection frequency, etc.).</p>	<p>GNWT recommends a review of standards based on the operational requirements of the Arctic and northern regions, with specifications to meet the regional challenges.</p>