



Guidance for Safe Crossings of NEB-Regulated Pipelines

Using Agricultural Vehicles and Mobile Equipment

June 2016



**When can
I cross?**



**Can I cross
with my
machinery?**

Where can I cross?



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FOREWORD

The National Energy Board (the NEB or the Board) is responsible for the regulation of natural gas, oil and commodity pipelines that cross a provincial or international border; it does so through the *National Energy Board Act* (NEB Act) and its regulations. The Board is committed to ensuring the continued safe and reliable operation of Canada's pipeline infrastructure that falls under its jurisdiction.

This guidance is provided to assist interested parties in understanding the requirements of the NEB's regulations for pipeline damage prevention for crossing of pipelines with agricultural vehicles or mobile equipment. This guidance is not a substitute for the NEB Act or any regulations made thereunder including the damage prevention regulations or any other applicable legislation. To the extent there is any inconsistency between this guidance and the NEB Act or its regulations, or any other applicable legislation, the legislation is paramount.

The purpose of the NEB's regulations for pipeline damage prevention is to ensure the safety of all persons living or working near pipelines. The regulations provide a framework to allow activities near pipelines to occur if they can be conducted safely.

The NEB is committed to continual improvement of the regulatory framework for pipeline damage prevention. Should you have any questions or feedback on this guidance, please send them to DPinfo@neb-one.gc.ca.



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INTRODUCTION

The NEB Act and its regulations define the responsibilities of both pipeline companies¹ and landowners/users² with respect to promoting safety and the prevention of damage to NEB-regulated pipelines³. Under section 112 of the NEB Act, a vehicle or mobile equipment crossing of a pipeline, which includes the right of way⁴ is prohibited unless authorized by regulations or Board order.

The NEB's regulations for pipeline damage prevention are the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations (DPR - Authorizations)*, and *National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies (DPR - Obligations of Pipeline Companies)*, provided in Appendix A of this document. These regulations provide the requirements for anyone planning to undertake a ground disturbance activity within the prescribed area⁵, construct a facility near a pipeline, or to operate a vehicle or mobile equipment across a pipeline.

The requirements that must be met for crossing the pipeline to be authorized, including crossings for agricultural activities, are located in the *DPR - Authorizations*, sections 12 and 13, and the corresponding responsibilities of the pipeline companies are located in section 7 of the *DPR - Obligations of Pipeline Companies*.

The *Guidance for Safe Crossings of NEB-Regulated Pipelines Using Agricultural Vehicles and Mobile Equipment* published in 2010 has been updated to reflect the changes made to the NEB Act and its damage prevention provisions through the *Pipeline Safety Act* in 2016, and related updates to the NEB's regulations for pipeline damage prevention.

Guidance notes for the full regulations can be found on the NEB website at www.neb-one.gc.ca: *Guidance Notes - National Energy Board Regulations for Pipeline Damage Prevention*.

-
- 1 The company is responsible for operation, maintenance and management of the pipeline.
 - 2 A person, engaged in agriculture, who raises livestock or grows crops. A land user may rent or lease the farmed land, or may work as a service provider or employee.
 - 3 A pipeline means a buried line that is used or to be used for the transmission of oil, gas or any other commodity, and includes the right of way. A more detailed definition can be found in the NEB Act.
 - 4 A pipeline right of way is the strip of land in which the pipeline is located. The width of the right of way may vary depending on factors such as pipeline diameter and the slope of the land, but it typically ranges from 12-30 metres (approximately 40-100 feet) for the entire length of the pipeline.
 - 5 The prescribed area means a strip of land measured 30 m perpendicularly on each side from the centerline of a pipe (*DPR - Authorizations*, section 2).
-



FACTORS THAT COULD INFLUENCE PIPELINE CROSSING SAFETY

1. Factors that could influence pipeline crossing safety

Safe crossing of buried pipelines involves many factors. These factors are subject to a number of standards and government regulations developed on the basis of best available science, engineering practices, and experience.

The factors that affect pipeline safety can be complex and include, but are not limited to, the following:

- Type of activities being conducted,
- Type and size of equipment,
- Soil conditions,
- Frequency of the crossing activity,
- Pipeline system specifications and design,
- Pipeline operating conditions, and
- Pipeline depth of cover⁶

2. Guidance for safe crossings of NEB-regulated pipelines using agricultural vehicles and mobile equipment

2.1 Agricultural crossings – consent NOT required

The *DPR – Authorizations* provides that persons operating agricultural vehicles or mobile equipment across pipelines may do so in low-risk areas, under certain conditions (section 13).

The operation across the pipeline of a vehicle or mobile equipment that is used for an agricultural activity is authorized if the following conditions are met:

- the loaded axle weight and tire pressures of the vehicle or mobile equipment are within the manufacturer's approved limits and operating guidelines; and
- the point of crossing has not been the subject of a notification from the pipeline company that crossing at that location could impair the pipeline's safety or security.

This applies to vehicles or mobile equipment used for agricultural activities in the production of crops and the raising of animals and includes pasturing and cultivation activities such as tillage, plowing, disking and harrowing.

Pipeline companies have the responsibility to identify the site-specific locations of the pipeline where such crossings could impair the pipeline's safety or security. The pipeline company must identify those locations and notify the affected persons in writing of those locations (*DPR – Obligations of Pipeline Companies*, section 7).

¹ _____

6 The depth of soil measured from the top of the pipeline to the ground surface.

IMPORTANT: If landowners/users are unsure if all of the above conditions will be met in relation to the proposed agricultural activity or are unsure if the proposed agricultural activity could jeopardize the safe and secure operation of the pipeline, they must contact the pipeline company before crossing the pipeline with agricultural vehicles or mobile equipment.

2.2 Agricultural crossings – consent IS required

Landowners/users must obtain written consent from the pipeline company before conducting crossings in any of the following circumstances:

1. the crossing is not for the purpose of an agricultural activity;
2. for crossings for the purpose of agricultural activities, the requirements regarding loaded axle weight and tire pressures cannot be met;
3. for crossings for the purpose of agricultural activities, the point of crossing has been the subject of a notification from the pipeline company that a crossing for at that location could impair the pipeline's safety or security.

The pipeline company has 10 working days to inform a person requesting consent for crossing the pipeline and the pipeline right of way with an agricultural vehicle whether it consents to the crossing. Should the pipeline company refuse to provide consent, the company will provide the person making the request with the reasons for its denial.

Pipeline companies are required to manage vehicle crossings on the pipeline. Their damage prevention programs, as required in the *National Energy Board Onshore Pipeline Regulations*, should identify vehicles that pose a hazard and those that do not pose a hazard to the pipeline, and manage them accordingly. If necessary, the pipeline company may request that the location of the crossing be moved or reinforced in some manner to prevent damage.

A thorough assessment of pipeline safety requires detailed knowledge about ground conditions, design factors and operating characteristics. For these reasons, pipeline companies and landowners or land users need to work together to make crossing assessments.

If you are unable to obtain the consent of the pipeline company for the crossing, you may file an application with the Board. You can find information in Guide C of the NEB's Filing Manual about how to make an application for a pipeline crossing. You can also contact the NEB toll free by telephone at 1-800-899-1265 or by email at DPinfo@neb-one.gc.ca. For information on how to make an application, see section 2.4.

2.3 Ground disturbance activity near the pipeline – consent IS required

Note that while crossing a pipeline with a vehicle that is used for an agricultural activity is authorized if it meets the requirements in section 2.1, if it is causing a ground disturbance in the prescribed area (30 metres measured perpendicularly from either side of the centreline of the pipe), that ground disturbance activity must also be authorized.

The following are not considered ground disturbances under the NEB Act and therefore do not have to meet the requirements for authorization of ground disturbance activities, including pipeline company consent:

- cultivation to a depth of less than 45 cm below the surface of the ground
- 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

Examples of agricultural activities that cause a ground disturbance that may not fall within the above exclusions and thus require consent from the pipeline company include, but are not limited to: stumping, sub-soiling, chisel plowing, terracing, drain tile excavating, driving posts, rotation of fences, leveling operations that change the pipeline depth of cover, and deep mechanical planting/harvesting.

If an activity involves the disturbance of the ground and does not fall within the above-referenced categories, the person planning the activity must meet the requirements outlined in *DPR - Authorizations*, which include:

- contacting the pipeline company and obtaining written consent
- making a locate request
- following the safety requirements in the regulations and provided by the pipeline company

DID YOU KNOW?

Pipeline signs and marker posts do not indicate the exact location of the pipe within the right of way.

ALWAYS click, or call, before you dig!

You can access the nearest one-call centre to make a locate request anywhere in Canada at
<http://www.clickbeforeyoudig.com/>

The pipeline company has 10 working days to inform a person requesting consent to undertake an activity causing a ground disturbance whether it consents to the activity. Should the pipeline company refuse to provide consent, the company will provide the person making the request with the reasons for its denial.

If the pipeline company has provided written consent for an activity causing a ground disturbance, the person planning the activity must make a locate request to a one-call centre, or to the pipeline company directly where one-call centres do not exist. The locate request must be made at least three working days before the day on which the ground disturbance activity is to start. The company must locate the pipe within three working days after the date of the request. This period of time may be extended if both you and the pipeline company agree.

The pipeline company must: locate its pipe; place surface markings to identify its location; and provide the safety practices to be followed (in a written format) and information that clearly explains the significance of the markings to the person planning to conduct a ground disturbance. The person conducting the ground disturbance activity must follow the safety measures in the regulations and in the company's written consent. For safety purposes, you must follow the instructions of the pipeline company's authorized field representative when conducting the activity.

If you are planning to conduct a ground disturbance or construction activity, or to operate a vehicle across a pipeline, you must inform anyone working on your behalf, including employees, contractors and subcontractors, of their obligations under the *DPR - Authorizations*.

If you are unable to obtain the consent of the pipeline company or you cannot meet the safety measures outlined in the regulations or by the company, you may file an application with the Board. You can find information in Guide C of the NEB's Filing Manual about how to make an application to conduct a ground disturbance activity. You can also contact the NEB by telephone at toll free 1-800-899-1265 or by email at DPinfo@neb-one.gc.ca. For information on how to make an application, see section 2.4.



2.4 How to apply for authorization from the National Energy Board

An application to the Board for authorization is a letter or document that should include the location and full details of the proposed activity. The Board's Filing Manual provides guidance regarding the type of information the Board would typically need for a section 112 application, including information on the purpose and location of the activity, and the rationale for seeking approval from the Board. The applicant is requested to provide as much information as possible about the efforts made to obtain the pipeline company's consent for the activity prior to making the application to the Board, including the reasons given by the pipeline company for withholding its consent.

The Filing Manual can be accessed online at www.neb-one.gc.ca. The Filing Manual is also available from the Board's Library by calling 1-800-899-1265.

Applications should be addressed to:

Secretary of the Board
National Energy Board
517 Tenth Avenue S.W.
Calgary, AB T2R 0A8

Applications may be filed with the Board by mail, courier or by facsimile by calling the toll free number at 1-877-288-8803. Applications can also be uploaded through the NEB's Applications and Filings Portal on the NEB website at Home / Applications and Filings / Submit Applications and Regulatory Documents / File under the NEB Act / OPR: NEB Act - Facilities, Protection of Pipelines from Ground Disturbance, Facility Construction, Crossings and Mining Operations - Guide C (<http://www.neb-one.gc.ca/pplctnflng/sbmt/nbpr-eng.html>).

A copy of the application must be forwarded to the pipeline company so that it can review the information and forward any comments it may have to the NEB.



APPENDIX A - REGULATIONS

National Energy Board Pipeline Damage Prevention Regulations - Authorizations

Interpretation

Definitions

1 The following definitions apply in these Regulations.

act means the *National Energy Board Act*. (*Loi*)

facility means any structure, highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telephone line, telegraph line, telecommunication line, line for the transmission of electricity or pipe for the transmission of hydrocarbons or any other substance. (*installation*)

offshore area means the submarine areas adjacent to the coast of Canada. (*zone extracôtière*)

overhead line means a facility that is an above-ground telephone, telegraph, telecommunication or electric power line or any combination of those lines. (*ligne aérienne*)

pipe means a pipe that is part of a pipeline and that is used or is to be used for the transmission of hydrocarbons or any other commodity. (*conduite*)

working day means any day that is not a Saturday or a Sunday or other holiday. (*jour ouvrable*)

General Provisions

Prescribed area

2 For the purposes of subsection 112(1) of the Act, the prescribed area means a strip of land measured 30 m perpendicularly on each side from the centreline of a pipe.

Locate request — person

3 (1) Subject to subsection (2), any person that intends to construct a facility across, on, along or under a pipeline or engage in an activity that would cause a ground disturbance within a prescribed area must make a locate request in the following manner at least three working days before the day on which the construction or activity is to start:

- (a) to a one-call centre if the intended construction or activity is within an area where a one-call centre exists; or
- (b) to the pipeline company directly if the intended construction or activity is not within an area where a one-call centre exists.

Locate request — pipeline company

- (2) Any pipeline company that intends to construct a facility across, on, along or under its pipeline or engage in an activity that would cause a ground disturbance within a prescribed area must make a locate request to a one-call centre at least three working days before the day on which the construction or activity is to start if the intended construction or activity is within an area where a one-call centre exists.

Emergency

- (3) In the case of an unexpected situation that could endanger life or cause substantial property or environmental damage that requires immediate action, the three-day period set out in subsections (1) and (2) does not apply and the locate request must be made as soon as possible before the construction or activity starts.

One-call centre

- (4) A one-call centre is an organization that, for the purposes of protecting the underground infrastructures of its members from damage and ensuring public safety,
- (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.

Duty to inform

- 4 Any person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within a prescribed area or operate a vehicle or mobile equipment across a pipeline must, before the construction, activity or operation is to start, inform all persons working on their behalf, including employees, contractors and subcontractors, of their obligations under these Regulations.

Designation of temporary prohibition area

- 5 If a pipeline company, after having received a locate request from a person that intends to engage in an activity that would cause a ground disturbance within a prescribed area, designates an area that is situated in the vicinity of a pipeline and that may extend beyond the prescribed area as a prohibition area, the ground disturbance is prohibited within the area during the period referred to in subsection 112(5.1) of the Act.

Authorization Under the Act

Pipeline company

- 6 For the purposes of subsection 112(1) and paragraph 112(2)(a) of the Act and despite sections 7 and 9 to 13 of these Regulations, the construction of a facility — in an area other than an offshore area — across, on, along or under a pipeline, an activity — in an area other than an offshore area — that would cause a ground disturbance within a prescribed area and the operation of a vehicle or mobile equipment across a pipeline is authorized if the pipeline company that intends to carry out the construction, activity or operation

- (a) is authorized to carry out the construction, activity or operation under the Act;
- (b) makes a locate request in accordance with section 3; and

-
- (c) if another pipeline company receives the locate request, the pipeline company that made the locate request obtains from the other pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*.

Facility

Authorization – of construction

7 (1) For the purposes of subsection 112(1) of the Act, the construction of a facility — in an area other than an offshore area — across, on, along or under a pipeline, other than the construction of an overhead line referred to in section 9, is authorized if the person that intends to construct the facility

- (a) obtains the pipeline company's written consent;
- (b) makes a locate request in accordance with section 3; and
- (c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*.

Suspension

(2) If the consent is suspended by the Board, or by the pipeline company in accordance with subsection 10(1) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*, the authorization is suspended and the construction must cease for the duration of the suspension of the consent.

Measures

(3) Any person that is undertaking the construction of a facility must comply with the following measures:

- (a) ensure that the construction is carried out in accordance with the technical details that are set out in the person's request for consent and that have been accepted by the pipeline company, as well as with the conditions set out in the pipeline company's consent;
- (b) ensure that the construction is completed within two years after the day on which the consent was obtained, unless the pipeline company and the person agree on another time period that is set out in the consent;
- (c) comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed while carrying out the construction in the vicinity of a pipe and that relate to the pipeline's safety and security;
- (d) if interference with or alteration of a pipe becomes necessary, obtain the pipeline company's written consent to interfere with or alter the pipe;
- (e) carry out any construction that involves the interference with or alteration of a pipe under the pipeline company's supervision; and
- (f) immediately notify the pipeline company of any contact with a pipe or its coating during the construction.

Obligations — existing facilities

- 8** The owner of a facility that is constructed — in an area other than an offshore area — across, on, along or under a pipeline must
- (a) maintain the facility in a state of good repair compatible with the pipeline's safety and security;
 - (b) immediately correct any deterioration in the facility on being so notified in writing by the pipeline company under subsection 9(1) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*;
 - (c) notify the pipeline company, in writing, of any proposed abandonment or removal of the facility; and
 - (d) remove or alter the facility or part of the facility that could adversely affect the pipeline's safe and efficient operation or that could jeopardize property and the environment and the safety and security of the public and of the pipeline company's employees.

Authorization for construction of overhead line

- 9 (1)** For the purposes of subsection 112(1) of the Act, the construction of an overhead line across a pipeline — in an area other than an offshore area — is authorized if the person that intends to construct the overhead line
- (a) makes a locate request in accordance with section 3;
 - (b) confirms with the pipeline company that all of the pipeline company's pipes in the vicinity of the construction have been marked; and
 - (c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*.

Measures

- (2)** Any person that is undertaking the construction of an overhead line across a pipeline must comply with the following measures:
- (a) construct the overhead line in accordance with any applicable provincial and federal law;
 - (b) if the pipeline is patrolled by aircraft and if the overhead line poses a risk to the aircraft, install and maintain aerial warning devices; and
 - (c) not construct or place any kind of pole, pylon, tower, guy, anchor or supporting structure across, on, along or under the pipeline.

Activity that Causes a Ground Disturbance

Authorization – ground disturbance activity

- 10 (1)** For the purposes of subsection 112(1) of the Act, any activity — in an area other than an offshore area — that would cause a ground disturbance within the prescribed area, other than an activity referred to in section 11, is authorized if the person that intends to engage in the activity

-
- (a) obtains the pipeline company's written consent;
 - (b) makes a locate request in accordance with section 3; and
 - (c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*.

Suspension

- (2) If the consent is suspended by the Board, or by the pipeline company in accordance with subsection 10(1) of the *National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies*, the authorization is suspended and the activity must cease for the duration of the suspension of the consent.

Measures

- (3) Any person that is engaged in an activity that causes a ground disturbance within the prescribed area must comply with the following measures:
 - (a) ensure that the activity is carried out in accordance with the technical details that are set out in the person's request for consent and that have been accepted by the pipeline company, as well as with the conditions set out in the pipeline company's consent, including the conditions respecting directional drilling or the use of explosives;
 - (b) ensure that the activity is completed within two years after the day on which the consent was obtained, unless the pipeline company and the person agree on another time period that is set out in the consent;
 - (c) not undertake mechanical excavation that would cause a ground disturbance within the prescribed area within 3 m of a pipe, unless
 - (i) if the excavation runs parallel to the pipe, the pipe has been exposed by hand at sufficient intervals to confirm the pipe's location or the pipeline company has used a method that would permit it to confirm the pipe's exact location and has informed the person of that location,
 - (ii) if the excavation crosses the pipe, the pipe has been exposed by hand at the point of crossing or the pipeline company has used a method that would permit it to confirm the pipe's exact location, has informed the person of that location and has confirmed that the pipe is at least 60 cm deeper than the proposed excavation, and
 - (iii) if ground conditions render it impractical to locate the pipe using any of the methods set out in subparagraphs (i) and (ii), the pipeline company directly supervises any excavation;
 - (d) comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed during the activity and that relate to the pipeline's safety and security;
 - (e) if interference with or alteration of a pipe becomes necessary, obtain the pipeline company's written consent to interfere with or alter the pipe;
 - (f) carry out any activity that involves the interference with or alteration of a pipe under the pipeline company's supervision;

-
- (g) immediately notify the pipeline company of any contact with a pipe or its coating during the activity; and
 - (h) unless otherwise agreed on by the pipeline company and the person that is engaged in the activity, notify the pipeline company at least 24 hours before backfilling over a pipe.

Authorization — activity required for maintenance of facility

11 For the purposes of subsection 112(1) of the Act, any maintenance of an existing facility — in an area other than an offshore area — that causes a ground disturbance within the prescribed area is authorized if the person engaged in the maintenance complies with paragraphs 10(1)(b) and (c) and the measures set out in paragraphs 10(3)(c) to (h).

Operation of Vehicles or Mobile Equipment Across a Pipeline

Authorization – operation across pipeline

12 Subject to section 13 and for the purposes of paragraph 112(2)(a) of the Act, the operation of a vehicle or mobile equipment across a pipeline is authorized if the person that intends to operate the vehicle or mobile equipment across the pipeline obtains the pipeline company's written consent.

Authorization — agricultural activity

13 (1) For the purposes of paragraph 112(2)(a) of the Act, the operation across the pipeline of a vehicle or mobile equipment that is used to perform an agricultural activity is authorized if the following conditions are met:

- (a) the loaded axle weight and tire pressures of the vehicle or mobile equipment are within the manufacturer's approved limits and operating guidelines; and
- (b) the point of crossing has not been the subject of a notification under section 7 of the *National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies*.

Definition of *agricultural activity*

(2) In this section, *agricultural activity* means the production of crops and the raising of animals and includes tillage, plowing, disking, harrowing and pasturing, but does not include the construction of new buildings or impervious areas or the placement of footings, foundations, pilings or posts, including fence posts.

Application for Authorization

File application with Board

14 (1) A person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within the prescribed area of a pipeline or operate a vehicle or mobile equipment across a pipeline may file an application for authorization with the Board if

- (a) the construction, activity or operation is not authorized under subsection 7(1), 9(1) or 10(1) or section 11 or 12; or
 - (b) the person is unable to comply with the applicable measures set out in subsection 7(3), 9(2) or 10(3).
-

Service

- (2) If a person files an application under subsection (1), that person must serve a copy of the application on the pipeline company that operates the pipeline in question.

Transitional Provisions

Construction or excavation

- 15 (1)** Any leave granted by the Board prior to June 19, 2016 to construct a facility across, on, along or under a pipeline or to excavate using power-operated equipment or explosives within 30 m of a pipeline under subsection 112(1) of the Act, as it read immediately prior to that date, expires on the date set out in the leave, but if there is no date set out in the leave it expires two years after the day on which the leave was granted.

Crossing

- (2) Any leave granted by the pipeline company prior to June 19, 2016 to operate a vehicle or mobile equipment across a pipeline under subsection 112(2) of the Act, as it read prior to that date, expires on the date set out in the leave granted by the pipeline company.

Construction or installation of facility

- 16** The construction or installation of a facility in respect of which a person has obtained written permission under paragraph 4(b) of the *National Energy Board Pipeline Crossing Regulations, Part I* prior to June 19, 2016 is authorized under subsection 112(1) of the Act, as it reads on June 19, 2016, and the measures to be taken in relation to that construction or installation are those set out in paragraphs 4(a) to (m) of those Regulations as they read immediately before the day on which these Regulations come into force.

Excavation

- 17** An excavation in respect of which a person has obtained the pipeline company's written permission under paragraph 6(b) of the *National Energy Board Pipeline Crossing Regulations, Part I* prior to June 19, 2016 is an authorized ground disturbance under subsection 112(1) of the Act, as it reads on June 19, 2016, and the measures to be taken in relation to the excavation are those set out in section 6 of those Regulations as it read immediately before the day on which these Regulations come into force.

Application Prior to Publication

Statutory Instruments Act

- 18** For the purposes of paragraph 11(2)(a) of the *Statutory Instruments Act*, these Regulations apply before they are published in the *Canada Gazette*.

Repeal

- 19** The *National Energy Board Pipeline Crossing Regulations, Part I* are repealed.

Coming into Force

S.C. 2015, c. 21

- 20** These Regulations come into force on the day on which section 34 of the *Pipeline Safety Act* comes into force, but if they are registered after that day, they come into force on the day on which they are registered.

National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies

Interpretation

Definitions

1 The following definitions apply in these Regulations.

authorization means the authorization referred to in subsection 112(1) or paragraph 112(2)(a) of the *National Energy Board Act*. (*autorisation*)

facility means any structure, highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telephone line, telegraph line, telecommunication line, line for the transmission of electricity or pipe for the transmission of hydrocarbons or any other substance. (*installation*)

pipe means a pipe that is part of a pipeline and that is used or is to be used for the transmission of hydrocarbons or any other commodity. (*conduite*)

prescribed area has the meaning assigned by section 2 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*. (*zone réglementaire*)

working day means any day that is not a Saturday or a Sunday or other holiday. (*jour ouvrable*)

One-call Centre

Obligation to be a member

2 (1) If a pipeline company operates a pipeline within a geographical area where a one-call centre exists, the pipeline company must be a member of that centre.

One-call centre

(2) A one-call centre is an organization that, for the purposes of protecting the underground infrastructures of its members from damage and ensuring public safety,

(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.

Consent

Inform person of decision

3 (1) If a pipeline company receives a request for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) or section 12 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*, the pipeline company must, within 10 working days after receiving the request, inform the person that made the request whether the consent has been granted or refused and, in the case of a refusal, the reasons for the refusal.

Contents of consent

- (2) When a person makes a request to the pipeline company for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* that contains the technical and other information that enable the pipeline company to determine whether the construction or activity would impair the pipeline's safety and security, the pipeline company may grant its consent subject to any conditions necessary for the protection of property and the environment, the safety and security of the public and of the company's employees or the pipeline's safety and security.

Amendment or addition of conditions

- (3) At any time during the construction of a facility or the activity that causes a ground disturbance, the pipeline company may add conditions or amend the conditions referred to in subsection (2) if it determines that additions or amendments are necessary to ensure the pipeline's safety and security.

Obligation to Provide Information

Information – application for authorization

- 4 If a person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within the prescribed area of a pipeline or operate a vehicle or mobile equipment across a pipeline has made a request to the pipeline company for the information that is necessary to make an application to the Board for authorization, the pipeline company must, within 10 working days after receiving the request, give the person all the information, and provide all reasonable assistance, that is necessary to prepare the application.

Comments by pipeline company

- 5 If a pipeline company receives a copy of an application for authorization that has been filed with the Board, the pipeline company must, within 10 working days after receiving the copy of the application, send to the Board its comments on the application.

Obligations Following Request to Locate

Timeline

- 6 (1) Subject to subsection (2), if a pipeline company receives a request to locate its pipes from a person that intends to construct a facility across, on, along or under a pipeline or engage in an activity that would cause a ground disturbance within the prescribed area, the pipeline company must, within three working days after the day on which the request is made, or any longer period agreed to by the pipeline company and that person,
- (a) inform the person, in writing, of safety practices to be followed while working in the vicinity of its pipes and, in case of a ground disturbance, within the prescribed area;
 - (b) mark the location of its pipes in the vicinity of the proposed facility or the prescribed area at maximum intervals of 10 m along each pipe using markings that are clearly visible and distinct from any other markings that may be in the vicinity of the proposed facility or the prescribed area; and
 - (c) provide information to the person that clearly explains the significance of the markings.

Markings

- (2) The markings must be consistent with the standards for locating a pipeline that are set out in the pipeline company's damage prevention program.

Obligations Respecting Certain Locations

Agricultural activity

- 7** Even if the condition set out in paragraph 13(1)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* is met, when the operation of vehicles or mobile equipment across a pipeline at specific locations for the purposes of performing an agricultural activity could impair the pipeline's safety or security, the pipeline company must identify those locations and notify the following persons in writing of those locations:

- (a) landowners of the specific locations in question; and
- (b) persons that are engaged in agricultural activities, rent or lease the land or work as service providers or employees at the specific locations in question.

Inspections

Inspections and field observations

- 8** The pipeline company must

- (a) carry out any inspections that are necessary to ensure the pipeline's continued safety and security during an activity that causes a ground disturbance within the prescribed area;
- (b) inspect all exposed pipe prior to any backfilling over a pipe to ensure that no damage to the pipe has occurred; and
- (c) in respect of any inspection carried out under paragraphs (a) and (b), make field observations relating to
 - (i) if a pipe was exposed, the clearance between the pipe and the facility and the condition of the pipe at the time of backfilling over the pipe,
 - (ii) the compliance with the measures set out in the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*,
 - (iii) the method used to engage in the activity that caused a ground disturbance, and
 - (iv) the occurrence of any unusual events that are related to the construction or activity and that may have had an effect on the pipeline's safety or security.

Deterioration — notify facility owner

- 9 (1)** If the pipeline company detects any deterioration of a facility that might adversely affect a pipe, the pipeline company must notify the facility's owner in writing.

Deterioration — notify Board

- (2) If the pipeline company detects any deterioration of a facility that would so impair the safety or security of the pipe as to warrant removal of the facility, the pipeline company must notify the Board in writing.

Suspension

Grounds

10 (1) The pipeline company may suspend the consent that it granted to construct a facility or to engage in an activity that causes a ground disturbance within the prescribed area if

- (a) the person carrying out the construction of a facility does not comply with the technical details and the conditions referred to in paragraph 7(3)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* or the instructions referred to in paragraph 7(3)(c) of those Regulations;
- (b) the person engaging in an activity that causes the ground disturbance does not comply with the technical details and the conditions referred to in paragraph 10(3)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* or the instructions referred to in paragraph 10(3)(d) of those Regulations; or
- (c) work practices might impair the pipeline's safety or security.

Notify Board

(2) If a pipeline company suspends its consent pursuant to subsection (1), it must immediately notify the Board in writing of the suspension and give its reasons for the suspension.

Obligation to Report

Report to Board

11 (1) The pipeline company must immediately report to the Board

- (a) every contravention of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*;
- (b) all damage to its pipe caused or identified during the construction of a facility across, on, along or under a pipeline, the operation, maintenance or removal of a facility, an activity that caused a ground disturbance within the prescribed area or the operation of vehicles or mobile equipment across the pipeline; and
- (c) any activity related to the construction of a facility across, on, along or under a pipeline, an activity that caused a ground disturbance within the prescribed area or the operation of vehicles or mobile equipment across a pipeline that the pipeline company considers could impair the safety or security of the pipe.

Contents of report

(2) The report must include the following information:

- (a) details of any contravention or of any damage, including, in the case of damage, the cause and nature of the damage;

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- (b) any concerns that the pipeline company may have regarding the pipeline's safety or security as a result of the construction of the facility, the activity that caused a ground disturbance or the operation of vehicles or mobile equipment across the pipeline; and
 - (c) any action the pipeline company intends to take or request.

Records

Facilities and ground disturbances

12 (1) The pipeline company must keep a record of all construction of facilities across, on, along or under a pipeline and of all activities that cause a ground disturbance within the prescribed area for the life of the pipeline.

Contents of records

- (2) The records must include, for each facility or each activity that causes a ground disturbance, as the case may be,
 - (a) the name and address of the person that carries out the construction or engages in an activity that causes a ground disturbance;
 - (b) the nature and location of the facility or the activity that causes a ground disturbance;
 - (c) the dates of commencement and termination of the construction of the facility or the activity that causes a ground disturbance;
 - (d) a description of the proposed facility, submitted with the request for the consent;
 - (e) a copy of the pipeline company's written consent;
 - (f) in respect of the inspections referred to in paragraphs 8(a) and (b), all findings and observations, including
 - (i) the name of the person that conducted the inspection,
 - (ii) the date and time of the inspection, and
 - (iii) any field observations referred to in paragraph 8(c);
 - (g) a statement of whether the person that carried out the construction or the person that engaged in an activity that caused a ground disturbance has complied with the measures set out in the *National Energy Board Pipeline Damage Prevention Regulations – Authorizations*; and
 - (h) the details of any abandonment, removal or alteration of the facility.

Consent — crossings

(3) The pipeline company must keep a record that contains a copy of the written consents granted by the pipeline company for the purposes of section 12 of the *National Energy Board Pipeline Damage Prevention Regulations – Authorizations* for the life of the pipeline or, if there is an expiry date set out in the consent, for a period of 12 months from the day on which the consent expires.

Locations

(4) The pipeline company must keep a record of the locations that are identified under section 7.

Duty to make records available

13 Every pipeline company that is required by these Regulations to keep records must make the records, and all other materials necessary to verify the information in those records, available to officers of the Board and other persons authorized by the Board for that purpose and must give the Board and other authorized persons any assistance necessary to inspect the records.

Lists

14 On the request of the Board, the pipeline company must provide the Board with

- (a) a list of every written consent granted for the purposes of section 12 of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*;
- (b) a list of every written consent granted by the pipeline company with respect to the construction of a facility or an activity that causes a ground disturbance and the information referred to in paragraphs 12(2)(a) to (c) with respect to the consent; and
- (c) a list of every permission granted by the pipeline company for the purposes of the *National Energy Board Pipeline Crossing Regulations, Part I* and the information referred to in paragraphs 11(2)(a) to (c) of the *National Energy Board Pipeline Crossing Regulations, Part II* with respect to the permission.

Guidelines

Request for consent

15 Every pipeline company must develop and maintain detailed guidelines setting out the technical and other information to be included in the requests for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) of the *National Energy Board Pipeline Damage Prevention Regulations - Authorizations* and must make those guidelines public.

Damage Prevention Program

Minimum content

16 The damage prevention program that a pipeline company is required to develop, implement and maintain under section 47.2 of the *National Energy Board Onshore Pipeline Regulations* must include

- (a) an ongoing public awareness program to inform the public
 - (i) of the presence of a pipeline,
 - (ii) on how to work safely near a pipeline,
 - (iii) on how to report an unexpected situation related to a pipeline that could endanger life or cause substantial property or environmental damage that requires immediate action,
 - (iv) on how to report any contact with a pipe or its coating, whether or not the pipe was damaged,

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- (v) on how to report any damage to a pipe;
 - (vi) of the services of a one-call centre if one exists within the relevant geographical area;
 - (vii) on the necessity for authorization when constructing a facility across, on, along or under a pipeline, engaging in an activity that causes a ground disturbance within the prescribed area or operating vehicles or mobile equipment across a pipeline;
 - (viii) of the information to be provided in a request for the consent to construct a facility across, on, along or under a pipeline, to engage in an activity that causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across a pipeline, and
 - (ix) on the requirement to make a locate request and how to make a locate request in the relevant geographical area;
- (b) ongoing monitoring of any changes in the use of the land on which a pipeline is located and the land that is adjacent to that land;
 - (c) ongoing monitoring of any change in the landowner of the land on which a pipeline is located;
 - (d) a process to ensure a timely response to locate requests;
 - (e) standards for locating a pipeline; and
 - (f) a process for managing requests for the consent to construct a facility across, on, along or under a pipeline, to engage in an activity that causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across the pipeline.

Transitional Provisions

Section 11 – former Regulations

17 Section 11 of the *National Energy Board Pipeline Crossing Regulations, Part II*, as it read immediately before the day on which these Regulations come into force, continues to apply to any person to which that section applied.

Section 14 – former Regulations

18 Section 14 of the *National Energy Board Pipeline Crossing Regulations, Part II*, as it read immediately before the day on which these Regulations come into force, continues to apply with respect to the permissions referred to in sections 15 and 16 of *National Energy Board Pipeline Damage Prevention Regulations - Authorizations*.

Application Prior to Publication

Statutory Instruments Act

19 For the purposes of paragraph 11(2)(a) of the *Statutory Instruments Act*, these Regulations apply before they are published in the *Canada Gazette*.

Repeal

20 The *National Energy Board Pipeline Crossing Regulations, Part II* are repealed.

Coming into Force

S.C. 2015, c. 21

21 These Regulations come into force on the first day on which both sections 15 and 34 of the *Pipeline Safety Act* are in force, but if they are registered after that day, they come into force on the day on which they are registered.





Thank you for taking the time to learn about the NEB's guidelines dealing with safe pipeline crossings using agricultural vehicles and mobile equipment.

Other publications that could be helpful include the following:

- Guidance Notes - National Energy Board Regulations for Pipeline Damage Prevention
- Pipeline Damage Prevention - Ground Disturbance, Construction and Crossings Near Pipelines

The NEB's mailing address is:

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Toll Free: 1-800-899-1265
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The documents listed above or any other publication can be ordered by:

- Mailing a request to the NEB Library at the mailing address above;
- Visiting the NEB Library located on the second floor;
- Telephone: 403-292-4800 or 1-800-899-1265;
- Fax: 403-292-5503 or 1-877-288-8803; or
- E-mail : publications@neb-one.gc.ca.