

National Energy
Board



Office national
de l'énergie

Guidance Notes – National Energy Board Regulations for Pipeline Damage Prevention

*National Energy Board Pipeline Damage Prevention
Regulations – Authorizations*

*National Energy Board Damage Prevention Regulations –
Obligations of Pipeline Companies*

June 2016

Canada

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List of Abbreviations and References

CCGA	Canadian Common Ground Alliance
CCGA – Underground Infrastructure Damage Prevention	CCGA Underground Infrastructure Damage Prevention – Best Practices, Version 1.0, October 2014
CSA Plus 663	<i>Land Use Planning for Pipelines: A Guideline for Local Authorities, Developers and Pipeline Operators</i>
CSA Z247	<i>Damage Prevention for the Protection of Underground Infrastructure</i>
CSA Z662	<i>Oil and Gas Pipeline Systems</i>
Filing Manual	National Energy Board Filing Manual
NEB Act, the Act	<i>National Energy Board Act</i>
<i>DPR – Authorizations</i>	<i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i>
<i>DPR – Obligations of Pipeline Companies</i>	<i>National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies</i>
DPRs	<i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations and National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies</i>
OERS	NEB’s Online Event Reporting system
OPR	<i>National Energy Board Onshore Pipeline Regulations</i>
ROW	right of way

Introduction

Under the *National Energy Board Act* (NEB Act), the responsibility to prevent pipeline damage is shared between anyone who plans to conduct an activity near a pipeline and the pipeline company. Pipeline companies are required to ensure that people know how to safely conduct activities near pipelines, and people planning activities near pipelines are required to confirm the location of pipelines and meet all conditions for authorization before they start these activities. The National Energy Board (NEB or Board) provides regulatory oversight for both, and must create the conditions necessary to hold persons and companies accountable for carrying out these responsibilities. The NEB's compliance verification, compliance promotion and enforcement activities support this framework and are used to promote safety and environmental protection.

The NEB's *Pipeline Damage Prevention Regulations - Authorizations*, and *Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies* (together, the DPRs) apply to any NEB-regulated pipeline company and to any person planning or undertaking an activity near an NEB-regulated pipeline.

These Guidance Notes are provided to assist interested parties in understanding the requirements of the DPRs. The regulations are provided in a text box at the beginning of each section, followed by guidance pertinent to the section of the DPRs cited.

The Guidance Notes are not a substitute for the NEB Act or any regulations made thereunder including the DPRs, or any other applicable legislation or standards enforced by the NEB or which the Board audits companies against. To achieve or evaluate compliance with the DPRs, reference should be made to the regulations themselves, and reliance should not be placed on these Guidance Notes. To the extent there is any inconsistency between these Guidance Notes and the NEB Act or its regulations, or any other applicable legislation or standards, the legislation and standards are paramount.

The Board's compliance activities for NEB-regulated companies include conducting compliance assessment meetings, inspections and audits to review a company's compliance with the NEB Act and related regulations. The Board also conducts inspections of activities involving the construction of a facility in the vicinity of an NEB-regulated pipeline, a ground disturbance within 30 metres of the pipe or crossing of the pipeline with a vehicle or mobile equipment. The NEB conducts compliance and enforcement activities, and may issue administrative monetary penalties under the *Administrative Monetary Penalties Regulations (National Energy Board)*.

The purpose of the DPRs 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 these Guidance Notes, please send them to DPinfo@neb-one.gc.ca.

Terms and Definitions

The following terms are defined in the NEB Act:

Pipeline (section 2)	Means a line that is used or to be used for the transmission of oil, gas or any other commodity and that connects a province with any other province or provinces or extends beyond the limits of a province or the offshore area as defined in section 123 [of the NEB Act], and includes all branches, extensions, tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio and real and personal property, or immovable and movable, and works connected to them, but does not include a sewer or water pipeline that is used or proposed to be used solely for municipal purposes.
Ground disturbance (section 2)	Ground disturbance does not include a ground disturbance caused by: <ul style="list-style-type: none">• 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• cultivation to a depth of less than 45 cm below the surface of the ground• an activity that is specified in the orders or regulations made by the Board under section 112(5) of the NEB Act

Other terms appearing in the DPRs and the Guidance Notes:

Depth of cover	The depth of soil measured from the top of the pipeline to the ground surface.
Locate (<i>verb</i>)	The process by which locators use electromagnetic fields, signals, or other methods, together with the information provided by the owner of the underground infrastructure, to identify the location of that underground infrastructure (CSA Z247).
Locate (<i>noun</i>)	The provision of location information by an underground facility owner (or their agent) in the form of ground surface markings and facility location documentation such as drawings, mapping, numeric descriptions or other written documentation (CCGA – Best Practices).

Locate request	A communication between a person proposing to excavate or disturb the ground at a particular location and a one-call centre, the pipeline company or their agent in which a request for locating underground facilities is processed.
Locator	A person who has been qualified by the pipeline company to perform a locate and issue a locate form to the party proposing to engage in the construction or activity.
Marking	Activities involved in visibly identifying the location of buried facilities through means of temporary flags, spray paint or other appropriate means.
Person	The term “any person” as stated in the DPRs includes, but is not limited to: a landowner, resident, tenant, excavator, contractor, business, association and pipeline companies and their agents.
Prescribed area	The prescribed area, as provided in these regulations, is a strip of land measured 30 metres perpendicularly on each side from the centerline of a pipe. This is the safety zone where the regulations apply and that safety measures must be met for activities causing a ground disturbance. Figure 1 in section 2 provides a graphical depiction of a prescribed area.
Right of way (ROW)	The strip of land acquired for which a pipeline company has obtained the rights for the construction and operation of the pipeline. Figure 1 in section 2 provides a graphical depiction of a right of way.

Part I – National Energy Board Pipeline Damage Prevention Regulations – Authorizations

Interpretation

Section 1 — 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*)

Guidance

Facility

The NEB Act prohibits construction of a facility across, on, along or under the pipeline, including the placement of a facility on the pipeline, unless authorized through the DPRs or a Board order. The *DPR – Authorizations* establishes the requirements for authorization for the facilities listed in the definition. The facility owner must meet the conditions set out in section 7 of the *DPR – Authorizations*, which includes obtaining consent from the pipeline company for constructing a facility across, on, along or under the pipeline.

Pipe – difference between “pipe” and “pipeline”

The definition of pipeline in section 2 of the NEB Act encompasses everything related to the pipeline, with all real property, which includes the ROW. When the word pipeline is used, it includes the pipe *and* the ROW. The word “pipe” refers to the specific conduit through which hydrocarbons and other commodities are transported.

Working day

“Working day” provides that the time periods provided in regulations are working days regardless of province, as statutory holidays may differ from province to province.

General Provisions

Section 2 — 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 centerline of a pipe.

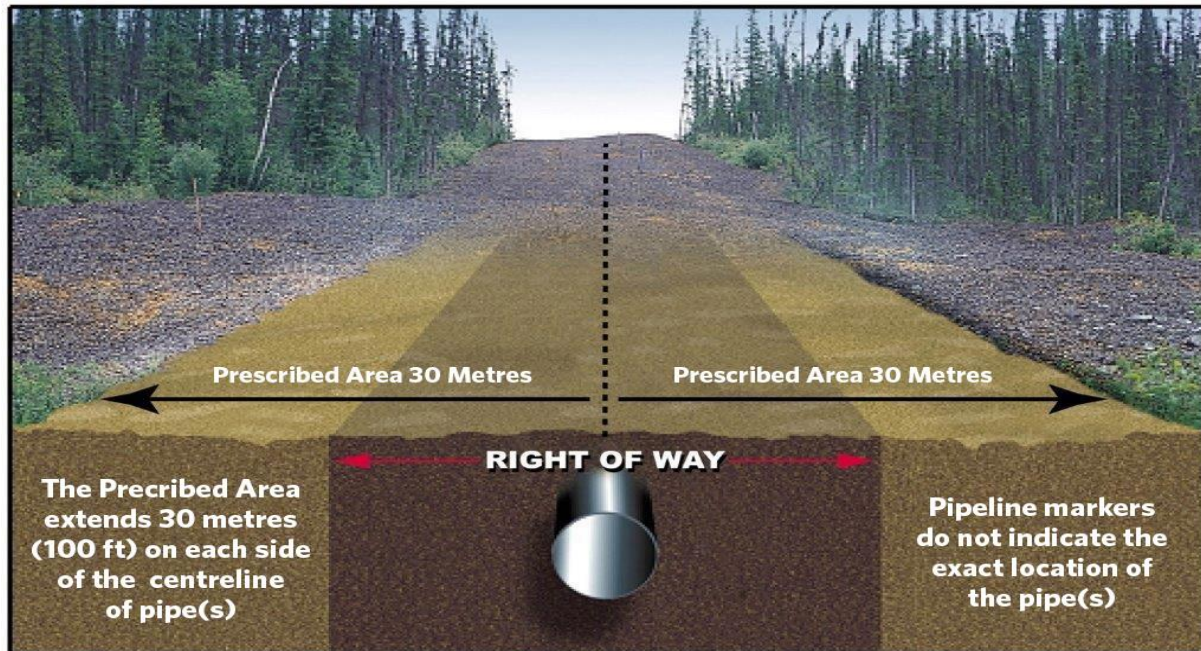
Guidance

Under the NEB Act, engaging in an activity that causes a ground disturbance within the prescribed area is prohibited unless authorized through the DPRs or a Board order. The *DPR – Authorizations* provide that the prescribed area extends 30 metres perpendicularly in both directions from the centreline of a pipe. The intent of the prescribed area is to ensure:

- the protection of pipelines from damage that may result from activities causing ground disturbance; and
- the safety of all persons living or working near the pipeline.

Figure 1 provides a graphical depiction of the prescribed area. The depiction of the ROW in Figure 1 is an example; ROWs may vary in size and may be larger than the prescribed area.

Figure 1 - Prescribed Area



Section 3 — Making a locate request

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.

Guidance

Locate request - person

Persons planning the construction of a facility across, on, along or under a pipeline or a ground disturbance activity in the prescribed area must make a locate request for each proposed site by contacting the one-call centre in their area. Where a one-call centre does not exist, the pipeline company must be contacted directly. The person undertaking the construction or a ground disturbance activity is responsible for ensuring that the locate request has been made, so that all buried facilities have been identified and their location marked.

The national web portal for making a locate request anywhere in Canada is: www.clickbeforeyoudig.com. Appendix 2 provides contact information for one-call centres across Canada.

The locate request must be made at least three working days before the day on which the construction of the facility or the activity causing a ground disturbance is planned to start. A person planning the construction or activity must also have the written consent of the pipeline company to conduct the activity (see section 7 and section 10). Prior to making the locate request, those planning activities will have contacted the pipeline company to obtain consent and then, once this consent is received, they must either call the one-call centre or, in areas where there is no one-call centre, call the pipeline company again for the purposes of the locate request.

After making the locate request, the pipeline company's locator will come out to the site to conduct the locate, mark the pipe, and provide a locate report to the person who made the locate request. The locator will identify the location of the pipe by using locate equipment and information such as georeferenced maps provided by the pipeline company.

Pipeline companies providing locate reports must follow the requirements in *DPR – Obligations of Pipeline Companies*, section 6. Within three working days after the day on which the locate request was made, the pipeline company must:

- 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;
- mark the location of its pipes within the vicinity of the proposed facility or the prescribed area at maximum intervals of 10 metres 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
- provide information to the person that clearly explains the significance of the markings.

The information about the location of the pipeline is provided in a locate report, which shows the location of the pipe and associated facilities. The locate report includes a sketch showing the horizontal alignment of the located pipe and associated facilities, and the position relative to readily identifiable objects. The locate report contains information about what needs to be done to prevent damage to the pipe or associated facilities. The surface markings made by the locator identify the horizontal alignment of the pipe. Locators communicate the meaning of markings and the information on the locate report to the person planning to conduct the ground disturbance.

The person conducting the construction or ground disturbance activity must ensure that it is carried out in accordance with the requirements outlined in section 7 and section 10 below, including the technical details contained in the pipeline company’s written consent. The person must 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 or activity.

Surface Markings

Companies should mark the horizontal alignment of their buried facilities using combinations of colour coded surface marks, temporary stakes or flagging. Where possible, markings should indicate the name, initials or logo of the pipeline company that owns or operates the line.

Stakes or markings may disappear or be displaced. Where delays occur beyond the specified period stated in the locate report or where the locate markings become unclear, a new locate must be requested by the person undertaking the construction or activity.

If the surface over the pipe or facilities is to be removed or excavated, supplemental offset markings should be used to clearly indicate the horizontal alignment of the pipe or facilities as determined through the locate.

The colours used to temporarily mark the horizontal alignment of underground facilities should be consistent with the *American Public Works Association Uniform Colour Code*:

WHITE	Proposed Excavation
PINK	Temporary Survey Markings
RED	Electric Power Lines, Cables, Conduit and Lighting Cables
YELLOW	Gas, Oil, Steam, Petroleum or Gaseous Materials
ORANGE	Communication, Alarm or Signal Lines, Cables or Conduit
BLUE	Potable Water
PURPLE	Reclaimed Water, Irrigation and Slurry Lines
GREEN	Sewers and Drain Lines

Pre-marking the location of the proposed activity

Prior to undertaking any activity causing a ground disturbance, the person proposing to perform the activity should mark out the location or boundary of all proposed activities using markings which are visible and which may be maintained until such time as the ground disturbance is complete. Activities associated with the ground disturbance would not proceed beyond the limits of the markings.

Locate request - pipeline company

Pipeline companies and anyone working for them are required to make locate requests prior to any construction or activities causing ground disturbance so that all owners of infrastructure are aware of the activities near their facilities.

Emergency

Where an emergency situation requiring an unplanned activity causing a ground disturbance or construction of a facility makes it impossible to contact the one-call centre or pipeline company three days in advance, the locate request must be made as soon as possible before the construction or activity starts. In such circumstances, pipeline companies are expected to locate the pipeline as soon as possible. Examples of emergency situations are natural or human-made disaster situations, such as floods or fires, and include requests made to facilitate the restoration of essential public services.

Failing to properly plan a ground disturbance activity or forgetting to make the locate request in a timely manner is not considered an emergency.

One-call centre

One-call centres, or notification centres, provide notification to buried infrastructure facility owners registered with the one-call centre of proposed activities causing ground disturbance near their buried infrastructure.

All companies regulated by the NEB are required to register their buried facilities with one-call centres, where they exist.

Did You Know?

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



Always contact the one-call centre before undertaking a ground disturbance. Where there is no one-call centre, contact individual companies directly to have buried facilities located.

Click or Call Before You Dig!

Section 4 — 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.

Guidance

Damage prevention is a shared responsibility. The intent of this clause is to facilitate communication between all parties to make sure that everyone is aware of the presence of a pipeline in the project area, and of the requirement to follow the *DPR – Authorizations*.

When municipalities and developers have projects that are within the prescribed area of a federally regulated pipeline, the request for bids and the contracts should advise that there is a federally regulated pipeline in the work area and that all work must be done in accordance with the *DPR – Authorizations*.

Landowners or land users hiring contractors are to communicate that there is a pipeline on the land and the requirements under the *DPR – Authorizations*, including the requirement to contact the one-call centre.

Section 5 — 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.

Guidance

The temporary prohibition area differs from and should not be confused with the prescribed area, which is 30 metres measured from the centreline on either side of the pipe. A temporary prohibition area may be designated by the pipeline company in the vicinity of the pipeline and may extend beyond the 30 metre prescribed area.

There may be situations where a ground disturbance activity outside of the prescribed area may pose a potential hazard to the pipe. When a temporary prohibition area is designated, no ground disturbance activity may be performed in this area until the pipeline is located and marked by the pipeline company or until

- the end of the third working day after the day on which the request is made; or
- at any later time that is agreed to between the pipeline company and the person making the request.

Confirm with the company representative that the company's pipeline in the area has been marked by the locator and that you understand the meaning of the various stakes and markings. A misunderstanding could cause you to damage a pipe, endangering your own life and that of others.

Authorization under the Act

Section 6 — 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*.

Guidance

This section provides specific requirements for a pipeline company planning to conduct an activity causing a ground disturbance within a prescribed area, construct a facility near a pipeline, or operate a vehicle or mobile equipment across the pipeline.

The requirements include authorization under other NEB Act authorizations (e.g. certificates or orders) for conducting construction or activities causing ground disturbance, or for crossing the pipeline. If the pipeline company is planning construction or an activity causing a ground disturbance, the company must make a locate request. If the pipeline where the work is to be done is not the requesting company's pipeline, the pipeline must be marked and the markings explained to the company intending to carry out the construction or activity.

Satisfaction of the requirements outlined in section 6 does not in any way preclude the need to comply with other requirements outlined in the NEB Act or related regulations or orders.

Facility

Section 7 — 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.

Guidance

Under the NEB Act, construction of a facility across, on, along or under a pipeline is prohibited unless authorized through the DPRs or a Board order. The *DPR – Authorizations* establishes the requirements for authorization and outlines the types of facilities that will require such authorization.

Constructing a facility includes the placement of a facility on the pipeline. Placing or storing equipment (mobile or otherwise), outbuildings, skating rinks, swimming pools, sheds, gazebos, woodpiles, berms or any other structure on the ROW requires written consent from the pipeline company to ensure that the facility will not negatively affect the integrity of the pipe or impede access for maintenance or emergency response.

A person planning to construct a facility across, on, along or under a pipeline must contact the pipeline company to obtain written consent. The safety measures set out in subsection 7(3) of the *DPR – Authorizations* must be met.

The pipeline company has 10 working days to inform a person requesting consent to construct a facility whether consent is granted or refused (*DPR – Obligations of Pipeline Companies*, subsection 3(1)). Should the pipeline company refuse to provide its consent, the pipeline company will provide the person making the request with the reasons for its denial.

The person planning the construction must make a locate request to a one-call centre, or to the pipeline company directly where one-call centres do not exist (*DPR – Authorizations*, section 3). The locate request must be made at least three working days before the day on which the construction of the facility is to start. 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 construct a facility (*DPR – Obligations of Pipeline Companies*, subsection 6(1)).

If the locate markers are removed or become obliterated, a new locate request must be made.

Written consent

The impacts of the proposed construction need to be assessed by the pipeline company to ensure that the construction will not pose a risk of damage to the pipeline. The consent must be provided in a written form, and must contain the 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.

Safety measures

Written consents for construction should address the following, including measures set out in subsection 7(3) and obligations set out in section 8 of the *DPR – Authorizations*:

- an acknowledgement that the person planning the construction accepts that the work will be carried out in accordance with the technical details 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;

- a provision that the work will be completed within two years after the day on which consent was obtained, unless the pipeline company and the person agree on another time period, as written in the consent;
- requirements for locates and exposure of the pipe;
- contact information and notification requirements for the work and in case of emergency;
- inspection requirements for the pipeline company;
- specific permission for any interference or alteration of a pipe and a requirement that such interference or alteration must be done under the pipeline company's supervision;
- methods and procedures to be taken to protect the pipe from damage during construction of the facility;
- requirements for the notification of the pipeline company of any contact with the pipeline company's pipe or its coating;
- maintenance provisions and access requirements; and
- notification requirements for the abandonment of the facility.

When a pipeline company assesses the impact of the proposed construction and determines that the activity may pose a risk to its pipeline, the pipeline company may be required to take necessary steps to ensure the safety of its pipeline, such as:

- requiring the construction of specialized crossings or the provision of crossings for the movement of vehicles or mobile equipment over pipelines;
- use of monitoring devices such as accelerometers to measure the effects of vibration loading on the pipeline; or
- requiring or providing shoring for excavations where subsidence could damage the pipeline.

No construction activity having the potential to damage a pipeline shall proceed until such time as the continued safe operation of the pipeline can be assured by the pipeline company.

After written consent is obtained, and work is to start, the person must 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. This includes stopping the work if it may impair the pipeline's safety or security.

Amendment or addition of safety conditions

At any time during the construction of a facility, 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 (*DPR – Obligations of Pipeline Companies*, subsection 3(3)).

Suspension

As provided in section 10 of the *DPR – Obligations of Pipeline Companies*, the pipeline company may suspend the consent that it granted to construct a facility if the person carrying out the construction of a facility does not comply with the technical details, conditions or

instructions referred to in section 7(3)(a) and 7(3)(c) of the DPR – Authorizations, or work practices might impair the pipeline’s safety or security.

If the pipeline company suspends consent for the construction of a facility, or the Board orders the work to stop, all work must stop until such time as the conditions causing the suspension are resolved and consent is given to proceed with the construction.

Any work done when the consent is suspended is unauthorized and is reportable to the Board under section 11 of the *DPR – Obligations of Pipeline Companies* and subject to compliance and enforcement measures, which may include administrative monetary penalties or prosecution.

Application to Board for authorization

Should consent to construct a facility be denied by the pipeline company, or the person cannot comply with the applicable measures in subsection 7(3), an application can be made to the Board for an order authorizing the construction. For guidance on how to make an application, see section 14 of DPR – Authorizations in this document.

Section 8 — 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.

Guidance

If you are the owner of the facility that is constructed across, on, along or under a pipeline, you must maintain the facility in good condition so that it will not impact the safety of the pipeline. This remains your responsibility until you can show that someone else has taken over the ownership of the facility, or until it has been removed or abandoned in a manner that does not adversely affect the pipeline’s safety and security or jeopardize property and the environment and the safety and security of the public and of the pipeline company’s employees.

Facility owners must contact the one-call centre or the pipeline company directly prior to any maintenance activities that could cause a ground disturbance in the prescribed area; for further

information regarding requirements for maintenance activities, see section 11 of *DPR – Authorizations*.

You must consider whether authorization requirements have been met when performing additional activities that would not have been contemplated in the original authorization of the construction of the facility. For example, for above grade facilities, consideration should be given to whether the placement of heavy materials on the pipeline would constitute the construction of a facility, which would require further consent of the pipeline company.

If you decide to remove or abandon the facility, you must notify the pipeline company in writing before doing so. You must also remove or alter your facility if it is determined that it could adversely affect the safe and efficient operation of the pipeline. The NEB may require you to remove or alter your facility if it determines that it is necessary. When removing your facility, any ground disturbance required would have to be authorized. If you are abandoning your facility, the pipeline company may require that you take precautions to ensure that deterioration of the facility does not become a hazard to the safety of the pipe.

Section 9 — 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.

Guidance

While consent of the pipeline company is not required to construct an overhead line across a pipeline (assuming that ground disturbances do not occur in the prescribed area or that the construction does not involve vehicle or mobile equipment crossing), a person constructing an overhead line across the pipeline ROW must, prior to construction: obtain from the pipeline company the safety practices to be followed while working in the vicinity of its pipes; must make a locate request; and must wait for the pipeline company to mark their pipeline and explain the significance of those markings.

Any person undertaking the construction of an overhead line across a pipeline must also comply with the applicable federal and provincial laws for the construction of the overhead lines. Ground to wire clearances are determined by a number of factors addressed in applicable codes and standards for the construction of overhead lines.

Aerial warning devices must be installed and maintained by the person constructing the overhead line where it crosses the pipeline, if the pipeline is patrolled by aircraft, for the safety of pipeline company employees, the public and the pipeline.

Poles, pylons, towers, guys, anchors or supporting structures must not be constructed or placed across, on, along or under the pipeline. If a third party proposes to place such structures on the pipeline ROW, separate authorization must be obtained in accordance with the procedures outlined in the other sections of the *DPR – Authorizations*, including section 7 and section 10.

Activity that Causes a Ground Disturbance

Section 10 — 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.

Guidance

Under the NEB Act, activities causing ground disturbance in the prescribed area are prohibited unless authorized through the DPRs or a Board order. The prohibition against ground disturbance in the prescribed area, as well as the exceptions contained in section 2 of the NEB Act, is related to actions or activities that disturb the ground.

Under section 2 of the NEB Act, ground disturbance does not include:

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

Depth of cover

Depth of cover is the depth of the soil measured from the top of the pipeline to the ground surface. Section 2 of the NEB Act provides that an activity is not a ground disturbance if it is to a depth of less than 30 cm and 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.

Pipeline companies survey their pipelines periodically to assess depth of cover. When a person is planning a ground disturbance activity near a pipeline, they must contact the pipeline company for consent and the pipeline company must provide the information necessary for the person to plan and safely undertake the activity, including information about adequate depth of cover. If the proposal involves an activity that is less than 30 cm but involves the removal of cover, the pipeline company should still be contacted to determine whether the depth of cover over the pipeline will be adequate for the activity to fit within the exception provided in the NEB Act.

Types of ground disturbance activities

Any activity resulting in a disturbance or displacement of soil or ground cover can be a ground disturbance under the NEB Act if they do not fall within the above-referenced exclusions.

Activities causing ground disturbance can include, but are not limited to, the following:

- digging
- excavation
- trenching
- ditching
- tunnelling
- 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
- crossing of buried pipelines or other underground infrastructure by heavy loads off the travelled portion of a public roadway

Ref. CSA Z247

Activities causing ground disturbance in the prescribed area

A person planning to conduct an activity causing a ground disturbance in the prescribed area must contact the pipeline company and obtain written consent. The safety measures set out in subsection 10(3) of the *DPR – Authorizations* must be met.

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 (*DPR – Obligations of Pipeline Companies*, subsection 3(1)). Should the pipeline company refuse to provide consent, the pipeline company will provide the person making the request with the reasons for its denial.

The person planning the activity causing a ground disturbance must make a locate request to a one-call centre, or to the pipeline company directly where one-call centres do not exist (*DPR – Authorizations*, section 3). The locate request must be made at least three working days before the day on which the ground disturbance activity is to start. 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 (*DPR – Obligations of Pipeline Companies*, subsection 6(1)).

If the locate markers are removed or become obliterated, a new locate request must be made.

Ground disturbance activities must not take place outside the area covered by the locate request without first obtaining a further locate from the one-call centre or the pipeline company directly.

The [CCGA's Underground Infrastructure Damage Prevention - Best Practices](#), or the CSA Z247, provide additional guidance for planning activities causing ground disturbance.

Written consent

The impacts of the proposed activity causing a ground disturbance need to be assessed by the pipeline company to ensure that the activity will not pose a risk of damage to the pipeline. The consent must be provided in a written form, and must contain the conditions necessary for the protection of property and the environment, the safety and security of the public and of the company's employees and the pipeline's safety and security.

Safety measures

Written consents for activities causing ground disturbance should address the following, including measures set out in subsection 10(3):

- an acknowledgement that the person planning the ground disturbance activity accepts that the work will be carried out in accordance with the technical details 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;
- a provision that the work will be completed within two years after the day on which consent was obtained, unless the pipeline company and the person agree on another time period, as written in the consent;
- requirements for locates and exposure of the pipe;

- contact information and notification requirements for the work and in case of emergency;
- inspection requirements for the pipeline company;
- methods and procedures to be taken to protect the pipe from damage when conducting the ground disturbance activity;
- requirements for the notification of the pipeline company of any contact with the pipeline company's pipe or its coating.

When a pipeline company assesses the impact of a proposed activity and determines that the activity may pose a risk to its pipeline, the pipeline company may be required to take necessary steps to ensure the safety of its pipeline, such as:

- requiring the construction of specialized crossings or the provision of crossings for the movement of vehicles or mobile equipment over pipelines;
- use of monitoring devices such as accelerometers to measure the effects of vibration loading on the pipeline; or
- requiring or providing shoring for excavations where subsidence could damage the pipeline.

No activity having the potential to damage a pipeline shall proceed until such time as the continued safe operation of the pipeline can be assured by the pipeline company.

After written consent is obtained, and work is to start, the person must comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed while carrying out the ground disturbance activity in the prescribed area. This includes stopping the work if it may impair the pipeline's safety or security.

Mechanical excavation within 3 metres of a pipe

Mechanical excavation that would cause a ground disturbance within 3 metres of a pipe must not take place until the pipeline company has been notified and measures have been taken by the pipeline company to ensure that the impacts associated with the activity have been appropriately mitigated. This includes ground disturbance activities using trenchless technologies.

No mechanical excavation can take place within 3 metres of the pipe unless the location of the pipe has been determined by exposing by hand or the pipeline company has confirmed the exact location of the pipe and has informed the person carrying out the excavation of that location. Where the exact location cannot be confirmed due to ground conditions, such as excessive depth or frozen ground, the pipeline company must directly supervise the excavation. Where the excavation crosses the pipe, the pipe must be at least 60 cm deeper than the proposed excavation.

These requirements are intended to ensure that the pipe and associated facilities will not be damaged. For additional information on the methods of pipeline exposure, persons planning to undertake a ground disturbance should contact the pipeline company directly.

Generally, the pipeline company will require their representative to be present during all ground disturbance activities within one metre of the pipe. A company representative should also be on site during backfilling. Instructions of the pipeline company's authorized field representative must be followed during these procedures.

Protection of facilities

The pipeline company must carry out any inspections necessary to ensure the continued safe operation of the pipeline while activities having the potential to damage the pipeline are occurring. This may include:

- witnessing and providing guidance for the exposure of the pipe;
- inspecting any supports or devices used to protect the pipe from damage;
- inspecting the condition of the pipe prior to backfilling; and
- witnessing backfill operations over the pipe until the amount of backfill is sufficient to prevent accidental contact damage to the pipe.

Backfill should not include material that could damage the pipe.

Amendment or addition of safety conditions

At any time during 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 (*DPR – Obligations of Pipeline Companies*, subsection 3(3)).

Suspension

As provided in section 10 of the *DPR – Obligations of Pipeline Companies*, the pipeline company may suspend the consent that it granted to conduct an activity causing a ground disturbance within the prescribed area if the person conducting the activity does not comply with the technical details, conditions and instructions referred to in paragraphs 10(3)(a) and 10(3)(d) of the *DPR – Authorizations*, or work practices might impair the pipeline's safety or security.

If the pipeline company suspends consent for the construction of a facility, or the Board orders the work to stop, all work must stop until such time as the conditions causing the suspension are resolved and consent is given to proceed with the activity.

Any work done when the consent is suspended is unauthorized and is reportable to the Board under section 11 of the *DPR – Obligations of Pipeline Companies* and subject to compliance and enforcement measures, which may include administrative monetary penalties or prosecution.

Application to Board for authorization

Should consent to undertake a ground disturbance activity be denied by the pipeline company, or the person cannot comply with the applicable measures in subsection 10(3), an application can be made to the Board for an order authorizing the ground disturbance activity. For guidance on how to make an application, see section 14 of *DPR – Authorizations* in this document.

Section 11 — 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).

Guidance

If maintenance of an existing facility in the prescribed area causes a ground disturbance, the person engaged in the maintenance must make a locate request in accordance with section 3 of *DPR – Authorizations* and obtain the necessary information from the pipeline company, including written safety practices, and an explanation of the markings made as a result of the locate request. If performing mechanical excavation within 3 metres of the pipe, the person engaged in the maintenance must follow the requirements for such excavation outlined in paragraph 10(3)(c); see section 10 of this guidance – Mechanical excavation within 3 metres of a pipe.

The person engaged in the maintenance must also 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.

If interference with or alteration of a pipe becomes necessary, the person engaged in the maintenance must obtain the pipeline company's written consent to interfere with or alter the pipe.

The person engaged in the maintenance must carry out any activity that involves the interference with or alteration of a pipe under the pipeline company's supervision. As well, the person engaged in the maintenance must immediately notify the pipeline company of any contact with a pipe or its coating during the activity.

Unless otherwise agreed on by the pipeline company and the person that is engaged in the activity, the facility owner must notify the pipeline company at least 24 hours before backfilling over a pipe.

Operation of Vehicles or Mobile Equipment across a Pipeline

Section 12 — Authorization – operation across a 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.

Guidance

Under the NEB Act, operating a vehicle or mobile equipment across a pipeline is prohibited unless the operation is authorized through the DPRs or a Board order, or the vehicle or mobile equipment is operated within the travelled portion of a highway or public road. The *DPR – Authorizations* establishes the requirements for authorization for crossing a pipeline.

A person planning to operate a vehicle or mobile equipment across a pipeline, which includes the ROW, must obtain the pipeline company's written consent. Section 13 provides for when persons involved in agricultural activities are not required to obtain the pipeline company's written consent.

Safe crossing of buried pipelines involves many factors. The movement of vehicles and mobile equipment over a pipeline increases the stresses on the pipe and, in some cases, may result in damage to the pipeline. The actual stress changes can only be assessed through engineering calculations. The factors that affect pipeline safety can be complex and include the following:

- the depth of cover and soil type;
- the operating stresses experienced by the pipe;
- the pipe materials; and
- the bearing pressure imposed by the static and dynamic loads applied.

Pipeline companies are required to manage vehicle crossings on the pipeline. Their damage prevention programs, as required in the OPR, 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.

Application to Board for authorization

Should consent to operate a vehicle or mobile equipment across a pipeline be denied by the pipeline company, an application can be made to the Board for an order authorizing the crossing. For guidance on how to make an application, see section 14 of *DPR – Authorizations*, in this document.

Section 13 — 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.

Guidance

Under the NEB Act, operating a vehicle or mobile equipment across a pipeline is prohibited unless the operation is authorized through the DPRs or a Board order, or the vehicle or mobile equipment is operated within the travelled portion of a highway or public road.

The *DPR – Authorizations* provide that persons operating agricultural vehicles across pipelines may do so in low-risk areas, under certain conditions.

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:

- 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 under section 7 of the *DPR – Obligations of Pipeline Companies*.

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).

Operating agricultural vehicles and ground disturbance

While crossing a pipeline with a vehicle that is used to perform an agricultural activity is authorized if it meets the requirements under section 13, if it is causing a ground disturbance, that ground disturbance activity must also be authorized in accordance with section 10, as described above.

The types of activities that are not prohibited and do not require authorization are: cultivation to a depth of less than 45 cm; and an activity to a depth of less than 30 cm provided it does not result in the reduction of earth cover over the pipeline to a depth that is less than the cover provided when the pipeline was constructed (NEB Act, section 2).

If anyone conducting agricultural activities is unsure if the planned crossing would jeopardize the safe and secure operation of the pipeline, or personal safety, they should contact the pipeline company before crossing the pipeline with the agricultural vehicle or equipment.

Application for Authorization

Section 14 — 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*.

Guidance

The pipeline company has 10 working days to inform a person requesting consent to construct a facility, undertake a ground disturbance or cross the pipeline with a vehicle or mobile equipment whether it consents to the construction, activity or crossing (subsection 3(1), *DPR – Obligations of Pipeline Companies*).

Should the pipeline company refuse to provide its consent, the pipeline company will provide the person making the request with the reasons for its denial.

If consent is not obtained or the person making the request cannot comply with the applicable measures set out in subsection 7(3) (constructing a facility), 9(2) (constructing an overhead line) or 10(3) (activity causing a ground disturbance), the person may seek authorization from the Board.

A person seeking authorization from the Board submits an application to the Board, and also must submit a copy of the application to the pipeline company. If the person 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.

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 – 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.

Transitional Provisions

Section 15 — Construction or excavation, crossings

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.

Guidance

Permissions for construction of a facility, excavations or crossings that were in place prior to the *Pipeline Safety Act* amendments to the NEB Act that came into force on June 19, 2016, expire on the date set out in the permission granted by the pipeline company. With respect to permissions for construction or excavation, if no date is noted in the permission for excavation or construction, it expires two years after the day on which it was granted.

Section 16 — 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.

Guidance

Permissions for construction or installation of a facility that were in place prior to the *Pipeline Safety Act* amendments to the NEB Act and the DPRs came into force on June 19, 2016, continue to be valid. The construction or installation of the facility must comply with the applicable measures set out in the *Pipeline Crossing Regulations, Part I*.

Section 17 — 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.

Guidance

Permissions for excavations that were in place prior to the *Pipeline Safety Act* amendments to the NEB Act and the DPRs came into force on June 19, 2016, continue to be valid. The excavation must comply with the applicable measures set out in the *Pipeline Crossing Regulations, Part I*.

Part II – National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies

Interpretation

Section 1 — 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*)

Guidance

Authorization

Persons planning to construct a facility across, on, along or under a pipeline, conduct an activity causing a ground disturbance in the prescribed area or to cross the pipeline with a vehicle or mobile equipment must meet the requirements outlined in the *DPR – Authorizations* or obtain approval of the Board in accordance with section 14 of the *DPR – Authorizations*.

Facility

Guidance is provided in Part I.

Pipe

Guidance is provided in Part I.

Prescribed Area

Section 2 of the *DPR – Authorizations* provides that the prescribed area extends thirty (30) metres perpendicularly in both directions from the centreline of a pipe. Further guidance is provided in Part I.

Working day

Guidance is provided in Part I.

One-Call Centre

Section 2 — 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.

Guidance

Pipeline companies are required to be a member of a one-call centre (notification centre) where one exists. One-call centres provide a single point of contact for receiving notices of intent to conduct ground disturbance activities and locate requests, and notify affected owners and operators of underground infrastructure.

As stated in the CCGA's [Underground Infrastructure Damage Prevention - Best Practices](#), one-call centres promote the need to "Call or Click Before You Dig" to:

- enhance awareness of responsibilities to safeguard workers and the public;
- protect the integrity of buried infrastructure; and
- foster a cooperative approach between the owners of buried facilities and the digging community toward the prevention of damage to buried facilities.

In addition to providing notifications regarding proposed activity that may affect buried infrastructure, typical one-call centre activities include:

- maintaining a database of active members of the digging community;
- participating in local damage prevention or facility location and coordination committees;
- participation at safety meetings;
- contractor awareness programs; and
- distribution of education material describing how one-call systems works.

For further information on one-call centres, pipeline companies may refer to the CCGA's

[Underground Infrastructure Damage Prevention - Best Practices](#). Copies may be downloaded from their website at www.canadiancga.com. The national portal for one-call centres is www.clickbeforeyoudig.com. A list of one-call centres is found in Appendix 2.

Consent

Section 3 – 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.

Guidance

Persons planning the construction of a facility near a pipeline, an activity causing a ground disturbance in the prescribed area or the operation of a vehicle or mobile equipment across a pipeline are required to contact the pipeline company and obtain written consent from the pipeline company. The pipeline company must be provided with the opportunity to: assess the impact of the proposed activity; locate its pipeline or associated facilities; place surface markings indicating the location of the pipeline or associated facilities; and take whatever steps necessary to ensure that its pipeline is protected from damage.

The pipeline company has 10 working days to inform a person requesting consent to construct a facility near a pipeline, undertake a ground disturbance in the prescribed area, or operate a vehicle or mobile equipment across a pipeline whether it consents to the construction, activity or operation.

Should the pipeline company refuse consent, the pipeline company must provide the person making the request with the reasons for its denial.

Contents of consent

The pipeline company may grant consent for construction or ground disturbance activities 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.

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 in the original consent if it determines that additions or amendments are necessary to ensure the pipeline's safety and security.

Obligation to Provide Information

Section 4 – 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.

Guidance

The pipeline company must provide all location information related to the pipeline in the area of the planned construction of the facility, ground disturbance activity or vehicle crossing, and should otherwise assist the person planning the activity to prepare the application.

Section 5 – 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.

Guidance

The Board reviews the company's comments and considers them in the decision making process on the application.

Obligations Following Request to Locate

Section 6 – Timeline and markings

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.

Guidance

The pipeline company must respond to a request for a locate within 3 working days after the day the request was made, or any longer period agreed to by the pipeline company and that person.

Following a locate request, the pipeline company must:

- 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;
- mark the location of its pipes within 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
- provide information to the person that clearly explains the significance of the markings.

Surface Markings

Companies should identify and mark continuously or at regular intervals, and must mark at a maximum of 10 metre intervals, the horizontal alignment of their buried facilities using combinations of colour coded surface marks, temporary stakes or flagging. Where possible, markings should indicate the name, initials or logo of the pipeline company that owns or operates the line.

Stakes or markings may disappear or be displaced. Where delays occur beyond the specified period stated in the locate report or where the locate markings become unclear, a new locate must be requested by the person undertaking the construction or activity.

If the surface over the pipe or facilities is to be removed or excavated, supplemental offset markings should be used to clearly indicate the horizontal alignment of the pipe or facilities as determined through the locate.

The colours used to temporarily mark the horizontal alignment of underground facilities should be consistent with the *American Public Works Association Uniform Colour Code*:

WHITE	Proposed Excavation
PINK	Temporary Survey Markings
RED	Electric Power Lines, Cables, Conduit and Lighting Cables
YELLOW	Gas, Oil, Steam, Petroleum or Gaseous Materials
ORANGE	Communication, Alarm or Signal Lines, Cables or Conduit
BLUE	Potable Water
PURPLE	Reclaimed Water, Irrigation and Slurry Lines
GREEN	Sewers and Drain Lines

Obligations Respecting Certain Locations

Section 7 – 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.

Guidance

Pipeline companies are required to identify areas where operating vehicles or equipment across the pipeline for the purposes of performing an agricultural activity could impair the safety or security of the pipe.

The company's management system program for damage prevention required to be implemented under the OPR must include hazard identification. Periodic depth of cover surveys and surveillance and monitoring of the pipeline for conditions and activities that reduce the depth of cover over the pipeline are required as part of the damage prevention program within the company's management system.

In the specific locations identified by the company where the operation of vehicles or mobile equipment across the pipeline for the purposes of performing an agricultural activity could impair the safety or security of the pipe, the company is required to notify, in writing, the landowners of those specific locations, as well as persons renting or leasing the land. This requirement is for the safety of all involved.

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 (*DPR – Authorizations*, section 13).

Inspections

Section 8 – 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.

Guidance

The pipeline company must carry out such inspections as are necessary to ensure the continued safe operation of the pipeline while activities having the potential to damage the pipeline are occurring. This may include:

- witnessing and providing guidance for the exposure of the pipe;
- inspecting any supports or devices used to protect the pipe from damage;
- inspecting the condition of the pipe prior to backfilling; and
- witnessing backfill operations over the pipe until the amount of backfill is sufficient to prevent accidental contact damage to the pipe.

Backfill should not include material that could damage the pipe. Requirements for records related to inspections are located in paragraph 12(2)(f) of *DPR – Obligations of Pipeline Companies*.

Section 9 – Detection of deterioration

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.

Guidance

When the pipeline company is conducting surveillance, monitoring or integrity activities and it finds that the condition of a facility constructed in the vicinity of their pipe, which includes any facility placed on the pipeline, has deteriorated to a point where it could adversely affect the pipe, they must notify the owner of the facility in writing of the deterioration.

If the facility has deteriorated to the point where removal is required to maintain the safety and security of the pipe, the pipeline company must notify the Board in writing.

Suspension

Section 10 – 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.

Guidance

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

- the person does not comply with the technical details and the conditions in the consent granted by the pipeline company;
- the person does not comply with the instructions of the pipeline company’s field representative; or
- work practices might impair the pipeline’s safety or security.

If the pipeline company suspends consent, the Board must be notified immediately of the suspension, and of the reasons for the suspension.

Any work done when the consent is suspended is unauthorized and is reportable to the Board under section 11 of the *DPR – Obligations of Pipeline Companies* and subject to compliance and enforcement measures, which may include administrative monetary penalties or prosecution.

Obligation to Report

Section 11 – 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;

(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.

Guidance

The pipeline company must report any contravention of the DPRs to the Board immediately.

This includes unauthorized activities such as:

- construction of a facility in the vicinity of the pipe without consent of the pipeline company or Board authorization;
- an activity causing a ground disturbance in the prescribed area without consent of the pipeline company or Board authorization;
- crossing the pipeline with a vehicle or mobile equipment without the consent of the pipeline or without meeting the requirements in section 13 of the *DPR – Authorizations*;
- work has been done in a manner that does not comply with the measures outlined in the *DPR – Authorizations*;
- work has been done in a manner that does not comply with the conditions of the pipeline

company's written consent; and

- work has continued when consent has been suspended.

Damage to the pipe or its coating, regardless of whether there was a release of product or not, must be reported to the Board.

The pipeline company must also report to the Board activities that could impair the safety or security of the pipe.

Reporting system

The Board has developed a web-based [Online Event Reporting System](#) (OERS) that regulated companies are required to use to report events under the regulations administered by the Board. The [OERS](#) guides the reporter through the reporting process, and asks for all of the required information. The report is done in two stages – the preliminary report which should be submitted immediately and contains the basic information regarding the event, and the final report which provides more fulsome information surrounding the event or incident.

For reporting requirements in the DPRs, pipeline companies are required to provide:

- details of any contravention or of any damage, including, in the case of damage, the cause and nature of the damage;
- 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 ground disturbance activity or the operation of vehicles or mobile equipment, and any action the pipeline company intends to take or request.

Records

Section 12 – Facilities, ground disturbances, crossings

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.

Content 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.

Guidance

This section details the various records that must be maintained by a company in relation to the DPRs. For example, pipeline companies must keep detailed records of all construction of facilities near a pipeline and ground disturbance activities within the prescribed area, including all written consents for these activities. They must also keep a record of the written consents for vehicle and mobile equipment crossings. The purpose of keeping the records as required in this section is to ensure the ongoing safety of people and maintenance of pipeline integrity.

Section 13 – 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.

Guidance

The Board or the officers of the Board may request records and other materials necessary to verify the information in the records for compliance verification. The pipeline companies must make the records and information available and provide any assistance necessary.

Section 14 – 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.

Guidance

When requested by the Board, the pipeline company must provide a list of written consents granted for:

- the construction of a facility on, along, across or under a pipeline;
- ground disturbance activities in the prescribed area; and
- crossings of the pipeline with a vehicle or mobile equipment.

With respect to the lists related to the construction of facilities and ground disturbance activities, the lists must include:

- the name and address of the person that carries out the facility or activity;
- the nature and location of the facility or activity;
- the dates of commencement and termination of the construction of the facility or the ground disturbance activity.

Similar information must be provided in relation to every permission granted by the pipeline company under the *National Energy Board Pipeline Crossing Regulations, Part II*.

Guidelines

Section 15 – Requests 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.

Guidance

The pipeline company must develop guidelines for persons requesting consent to construct a facility on, along, across or under a pipe and for persons planning to engage in an activity causing a ground disturbance. The guidelines should include the technical and other information guidelines required for the pipeline company to make a complete assessment of the request.

The pipeline company should make the guidelines readily available to the public by posting the guidelines on the pipeline company's website and having print copies available on request.

Damage Prevention Program

Section 16 – 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,
 - (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.

Guidance

The OPR requires pipeline companies to develop, implement and maintain a damage prevention program that anticipates, prevents, manages and mitigates damage to their pipelines. A company's management system specifically applies to the damage prevention program. For a damage prevention program to be systematic, comprehensive, explicit and proactive, it must include the management system elements referenced at section 6.5 of the OPR.

Damage prevention programs are closely tied to the emergency management requirements in the OPR. Specifically, sections 32 through 35 of the OPR contain requirements for pipeline companies with respect to an emergency management program, emergency preparedness and response, continuing education and liaison, and section 39 contains monitoring and surveillance requirements. These requirements should form part of a company's damage prevention program.

Although the content of damage prevention programs may vary according to the operations of individual companies, a company's damage prevention program must include: a public awareness program to inform the public; monitoring of land use and ownership; a process for responding to locate requests; standards for locating a pipe; and processes for managing requests for consent for constructing a facility, conducting a ground disturbance activity, and operating vehicles and mobile equipment across the pipeline. Awareness of pipeline facilities relies heavily on the use of highly visible signage and markings; signage requirements for pipeline companies to mark their pipelines are contained in the OPR and in CSA Z662.

Public awareness program

A pipeline company's public awareness program is vital to the continued safe operation of pipelines. An effective public awareness program should raise the awareness of the affected public and key stakeholders of the presence of pipelines in their communities. It should help the public understand how pipelines function and should also describe the public's responsibilities to keep everyone safe.

To support the requirements in the regulations, a public awareness program should include:

- one-call centre information;
- description of the prescribed area;
- descriptions of activities within the prescribed area which require notification to the pipeline company, and authorization;
- general requirements of easement agreements pertaining to the continued safe operation of the pipeline;
- information on what activities have the potential to damage the pipeline;
- regulatory requirements, including those related to construction of facilities, ground disturbance activities and operation of vehicles or mobile equipment;
- illustrations and descriptions of pipeline markers;
- an explanation of signage used for the pipeline;
- guidance on the types of activities and events that should be reported to the pipeline company;

- guidelines for written requests for construction of facilities, ground disturbance activities and crossings;
- information regarding emergency response and emergency contacts; and
- the location and general physical attributes (size, material, content, pressure, etc.) of the pipeline.

The variety of audiences should be considered when developing and implementing the public awareness program. The frequency of engagement should be sufficient to ensure that the audience is aware of the presence of the pipeline and the content of the public awareness program. The public awareness program should include provisions for quick communication of essential information to target audiences.

In order to meet the requirements for a public awareness program, pipeline companies are encouraged to become members of damage prevention organizations where they exist along their pipeline. To inform the public on an ongoing basis of the presence of a pipeline and how to work safely near a pipeline, pipeline companies can be involved in planning and land development processes within the areas in which they operate a pipeline.

In order to be effective, a company's public awareness program must be up to date and accurate. The effectiveness of company's public awareness program should be periodically evaluated as part of the company's management system. The OPR requires that companies audit their management system programs, including damage prevention programs, with a maximum interval of three years.

Ongoing monitoring of land use and ownership

Pipeline companies must monitor land use and ownership on an ongoing basis; this can be done through:

- establishing and maintaining line lists;
- maintaining up to date information on the ownership of the land; and
- establishing a process to monitor land use changes.

The ongoing monitoring of changes in the use of the land on which a pipeline is located and the adjacent land is required in order for a company to effectively identify hazards and manage the risks related to pipeline damage prevention over time.

The OPR requires that pipeline companies have surveillance and monitoring programs for their pipeline. This program should be designed to detect potentially damaging activities that occur on or near pipelines. The frequency of surveillance and monitoring should be proportional to the risk posed in the area (e.g. urban areas, populated centres, frequent ground disturbances, etc.). For more information on surveillance and monitoring refer to the OPR and related Guidance Notes on the NEB website (www.neb-one.gc.ca).

Process for ensuring timely response to locate requests

Pipeline companies must be a member of a one-call centre in the area where they operate pipelines and where one exists. Pipeline companies must respond to locate requests within 3 working days and have a process for ensuring that locate requests can be responded to within the required time period.

Standards for locating a pipeline

Pipeline companies' damage prevention programs must contain standards for locating a pipeline. The standards should include at a minimum:

- the required qualifications and competencies for locators;
- the type and quantity of surface markings to be used;
- the procedures for establishing the depth of cover over the pipe; and
- the identification information to be given to locators.

Managing requests for consent

Pipeline companies must develop a process for managing requests for the consent to construct a facility near a pipeline, to conduct a ground disturbance activity, and to operate a vehicle or mobile equipment across a pipeline. The process should include guidelines and service standards for processing requests consistently and efficiently, and should provide clear expectations for the public. The process and related guidelines can include:

- the information required from the person making the request;
- how the requests will be handled by the company;
- the form that consent will take;
- the options available in the event that consent is denied;
- permitted and restricted practices or equipment; and
- situations where a general consent may be appropriate such as a category or grouping of activities such as farming practices within a defined area or the movement of recreational vehicles such as snowmobiles, all-terrain vehicles, and motorcycles.

Transitional Provisions

Section 17 – 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.

Guidance

The requirement for pipeline companies to maintain records for all construction or installation of facilities and all excavations for the life of the pipeline that were documented prior to when the *Pipeline Safety Act* amendments to the NEB Act and the DPRs came into force on June 19, 2016, continues to be in place.

Section 18 – 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*.

Guidance

The suspensions that were in place with respect to permissions for constructing or installing a facility, or to excavate, immediately prior to when the *Pipeline Safety Act* amendments to the NEB Act and the DPRs came into force on June 19, 2016, continue to be in place.

Appendix 1 – Safety Checklist

SAFETY CHECKLIST when planning activities near a pipeline:

1. **Plan your activity.** Identify the precise location of your work, check records for evidence of pipeline easements or other buried facilities.
2. **Go to the site** and look for pipeline warning signs or pipeline marker posts.
3. **Contact the pipeline company** and obtain a copy of the pipeline company's guidelines for constructing a facility, conducting activities causing a ground disturbance, or crossings in the vicinity of a pipeline.
4. **Obtain the pipeline company's written consent** for the construction of facilities across, on, along or under a pipeline, conducting activities causing a ground disturbance in the prescribed area, or crossing a pipeline with a vehicle or mobile equipment.
5. **Make a locate request** at least three working days before the day on which the construction or ground disturbance activity is started, by calling the one-call centre, or by calling the pipeline company where there is no one-call centre, to have the pipe located and marked.
6. **Be on site** when the pipeline is located, and **know the meaning of the pipeline markings.**
7. **Review NEB requirements** with all persons working on your behalf, including employees, contractors and subcontractors, to ensure they are aware of their obligations. Keep documents with safety requirements and guidance on site.
8. **Expose the pipe by hand digging or other acceptable excavation techniques accepted by the pipeline company** prior to any mechanical excavation within three metres of the pipe. **Follow the instructions of the pipeline company's authorized field representative.**
9. **Notify the pipeline company** prior to backfilling over the pipe or facilities, where the pipe or facilities have been exposed. **Follow the instructions of the pipeline company's authorized field representative.**
10. **IMMEDIATELY NOTIFY THE PIPELINE COMPANY IF YOU COME INTO CONTACT WITH THE PIPE!** A small scratch or dent in the pipe's coating can impact the long term safety of the line and must be assessed by the pipeline company.

Appendix 2 – One-Call Centres

Anyone undertaking construction of a facility or ground disturbance activity is required to contact the one-call centre to arrange to have the pipeline located. Where a one-call centre does not exist, persons requiring a locate must contact the pipeline company directly.

The following provides information on one-call centres within Canada:

National web portal for one-call centres in Canada: www.clickbeforeyoudig.com

This portal will also tell you where you have to contact the pipeline companies directly.

One-Call Centres:

British Columbia

www.bconecall.bc.ca

BC One Call: 1-800-474-6886

Ontario

www.on1call.com

Ontario One Call: 1-800-400-2255

Alberta

<http://albertaonecall.com>

Alberta One Call Corporation: 1-800-242-3447

Québec

www.info-ex.com

Info-Excavation: 1-800-663-9228

Saskatchewan

www.sask1stcall.com

Sask First Call: 1-866-828-4888

Atlantic Canada

www.info-ex.com

Info-Excavation: 1-866-344-5463

1-800-663-9228

Manitoba

<http://www.clickbeforeyoudigmb.com/>

Click Before You Dig MB: **1-800-940-3447**

Contact the pipeline company directly in the Northwest Territories.