

National Energy
Board



Office national
de l'énergie

Excavation and Construction Near Pipelines

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Warning Note

Each excavation or construction activity is unique and this guide cannot deal with all cases. Its purpose is to help you determine whether you must obtain approval, where to obtain it and how to obtain it. This document should be regarded as a guide only and in any case of discrepancy between this guide and the *National Energy Board Act*, and the *National Energy Board Pipeline Crossing Regulations, Part I and II*, the Act and the Regulations shall take precedence.

This booklet also contains a consolidation of the:

National Energy Board Pipeline Crossing Regulations, Part I, SOR/88-528

National Energy Board Pipeline Crossing Regulations, Part II, SOR/88-529

Users of this office consolidation are reminded that it is prepared for convenience of reference only.



Table of Contents

1. National Energy Board Regulations	1
Who is Affected by the <i>Regulations</i> ?	2
What is a Facility?	3
Which Pipelines are under NEB Jurisdiction?	3
What Do the <i>Regulations</i> Provide?	3
2. Obtaining Permission	5
What Activities Require Permission from the Pipeline Company?	5
What Activities Do Not Require Permission?	5
How To Obtain Permission from the Pipeline Company	6
Is There a Time Limit?	6
When Do You Require Approval from the NEB?	6
How to Apply Directly to the National Energy Board	7
3. Your Responsibilities	9
Your Field Responsibilities	9
Your Responsibilities After Construction	10
4. Unauthorized Construction and Excavation Activities	11
What is the NEB's response to Reports of Unauthorized Construction and Excavation Activities near Pipelines?	11
5. Safety Checklist	13
Appendix 1 - National Energy Board Contact	15
Appendix 2 - Provincial One Call Centres	16
Appendix 3 - Section 112 of the National Energy Board Act	17
Appendix 4 - National Energy Board Pipeline Crossing Regulations	19
Appendix 5 - Mailing List Request Form	29





1. National Energy Board Regulations

The National Energy Board (NEB or the Board) takes all available actions to protect Canadians and the environment. As a result of on-going regulatory efforts and continued monitoring, pipelines continue to be a safe method to transport products, such as natural gas, oil or other commodities, across the country.

Preventing damage to pipelines is a shared responsibility. Pipeline companies and anyone living or working near pipelines have an important role to ensure that activities near pipelines are conducted safely. It is often human error that causes damage to pipelines that may put your safety, your community and the environment at risk. Please be aware of pipelines and always call before you dig!

**Call or click before you dig! Contact your Provincial One Call Centre.
<http://www.clickbeforeyoudig.com>**

**If you do not live in one of the provinces listed below,
please contact the pipeline company directly.**

New Brunswick

www.info-ex.com

Saint John Dig Line: 1-866-344-5463

Québec

www.info-ex.com

Info-Excavation: 1-800-663-9228

Ontario

www.on1call.com

Ontario One Call System: 1-800-400-2255

Manitoba

www.clickbeforeyoudigmb.com

Click Before You Dig Manitoba: 1-800-940-3447

Saskatchewan

www.sask1stcall.com

1st Call: 1-866-828-4888

Alberta

www.alberta1call.com

Alberta One Call Corporation: 1-800 242 3447

British Columbia

www.bconecall.bc.ca

BC One Call: 1-800 474 6886

The National Energy Board Pipeline Crossing Regulations

Experience has shown that many pipeline incidents are caused by contractors or others working near the pipeline. Unsafe construction and excavation practices can damage a pipeline and the environment, sometimes resulting in injury or death to construction company workers and bystanders. In addition to the dangers to people and the environment, such damage can lead to expensive repairs as well as a loss of revenue and essential services.

The NEB is focussed on the safety of pipelines under its jurisdiction. Under sections 112 and 48(2) of the **National Energy Board Act (NEB Act)**, the NEB developed the **National Energy Board Pipeline Crossing Regulations, Part I and Part II (the Regulations)**. Following these regulations will reduce the likelihood of damage to pipeline company facilities and enable you to complete your project safely and legally.

“Pipeline” in section 2 of the NEB Act is defined as follows: “pipeline” 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, 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.

Who is Affected by the Regulations?

The *Regulations, Part I* applies to anyone who will be excavating using power-operated equipment or explosives on the right of way and within 30 metres (100 feet) of the limits of the right of way (see section 112(1) of the *NEB Act* in Appendix 3) or who will be constructing a facility across, on, along, or under a right of way that is regulated by the NEB. Exceptions to these regulations include the pipeline company itself or its agents and anyone who is disturbing the ground to a depth of less than 0.3 metres (1 foot), not reducing the total cover over the pipe and not constructing or installing a facility. The *Regulations, Part II* set out responsibilities of pipeline companies concerning proposed excavation or construction near pipelines. The NEB requires companies to anticipate, prevent, manage and mitigate potentially dangerous conditions associated with their pipelines.

What is a Facility?

In general, a facility includes but is not limited to:

- a structure (anything built or installed), for example: a fence, a concrete conduit structure, a swimming pool, a retaining wall, a shed;
- a highway, private road, lane, parking lot, walkway;
- a railway;
- a drainage or irrigation system, including dykes, ditches and culverts;
- a telecommunication line or power line; and
- a pipe, for example: a water main, a sewer, a gas line, an oil line.

Which Pipelines are under NEB Jurisdiction?

In general, the NEB regulates natural gas, oil, and commodity pipelines that extend beyond provincial, territorial or national boundaries.

What Do the *Regulations* Provide?

Part I of the *Regulations* explains the legal conditions under which excavation and construction activities near the right of way can be conducted safely. If you cannot obtain permission from the pipeline company, or if you cannot meet all the requirements of the *Regulations* and/or the conditions of the pipeline company, you can apply to the NEB under section 112 of the *NEB Act* for leave to excavate or construct.

Part II of the *Regulations* states the responsibilities of the pipeline company to you and the NEB.

If you have any questions about the *Regulations*, contact the NEB. Contact information is included in Appendix 1 and on page 15 of this guide.

Unauthorized construction or installation across, on, along, or under a right of way or excavation using power-operated equipment or explosives within the 30 metre (100 foot) safety zone is illegal.



2. Obtaining Permission

What Activities Require Permission from the Pipeline Company?

Permission from the pipeline company is required for:

- Construction or installation of a facility across, on, along, or under an existing right of way;
- Excavation using explosives or power-operated equipment over the right of way;
- Operation of a vehicle or mobile equipment across a right of way, outside the travelled portion of a highway or public road;
- Excavation using explosives or power-operated equipment within the 30 metre (100 foot) safety zone, i.e. the area that extends 30 m (100 feet) from each side of the right of way.

Please note that there are different permission requirements specific to crossing a right of way using agricultural vehicles and mobile equipment that are not covered in this booklet. For more information, please see the NEB's "Guidance for Safe Crossing of NEB-Regulated Pipelines Using Agricultural Vehicles and Mobile Equipment" or contact the pipeline company.

What Activities Do Not Require Permission?

Under the *Regulations*, you do not require written permission from the pipeline company or approval of the NEB to install overhead lines or to excavate to maintain an existing facility, **if you meet certain conditions.**

Overhead Lines

- Overhead lines must meet the Canadian Standards Association Standards for ground to wire clearances for overhead systems;
- Unless otherwise agreed on by the pipeline company and the facility owner, three working days notice is given by the facility owner to the pipeline company prior to commencement of installation;
- If a pipeline is patrolled by aircraft, aerial warning devices may be required to be installed and properly maintained by the facility owner; and
- Poles, guy wires, towers, anchors or supporting structures of any kind constructed or placed on the right of way or within its projected limits are prohibited.

Maintenance to an Existing Facility

- When conducting excavation required for the maintenance of an existing facility, the conditions outlined in this guide under “Your Field Responsibilities” must be adhered to. (See the *Regulations, Part I, s.7*)

If you have any doubts, please call the applicable pipeline company or the NEB.

How To Obtain Permission from the Pipeline Company

1. Contact the pipeline company for a copy of their technical crossing guidelines. These guidelines set out the information you need to include in your application to the pipeline company.
2. Prepare your request for permission following the pipeline company’s guidelines.
3. If you have any questions pertaining to your project, contact the pipeline company **before** you submit your request for permission. They will discuss your project with you and, if necessary, provide assistance.
4. Submit your request for permission to the pipeline company.

Within ten working days of receiving your request, the pipeline company must give you its permission or provide reasons for denying its permission. **If permission is denied, you may apply to the NEB for a review of your request under subsection 112(1) of the NEB Act.**

If you decide to change the design, location, or type of facilities to be installed **after** the pipeline company gives its permission, the pipeline company must agree to the changes **before** you start your work.

Is There a Time Limit?

In general, the pipeline company’s permission will lapse if all work is not completed within two years of the date that permission was given. However, this time limit may be changed if you and the pipeline company agree.

The pipeline company or the NEB may suspend the permission given by the pipeline company if unsafe construction practices are used. (*Regulations, Part II, s.14*)

When Do You Require Approval from the NEB?

If you cannot obtain the pipeline company’s permission or you cannot comply with all the conditions in the *Regulations*, you must obtain the NEB’s approval before starting any activity listed on page 11.

You will also have to ask the NEB for its approval if:

- You believe a condition required by the pipeline company is inappropriate or excessive and you cannot accept it;
- The pipeline company has suspended and not reinstated its permission for your proposed activity; or
- The excavation or construction is in an offshore area (i.e. in an underwater area off the coast of Canada).
- Seismic or mining activities within 40 metres of a pipeline right of way require permission from the NEB (see section 81, NEB Act).

How to Apply Directly to the National Energy Board

1. Refer to the NEB's Filing Manual, Guide C. The Filing Manual provides guidance about the type of information the Board would typically need to make a decision for projects involving the protection of pipelines from mining operations and excavation and construction activities respectively.

You can access the Filing Manual online by following the instructions below or by requesting a copy from our Library by calling 1-800-899-1265.

- a. Open your web browser and go to the NEB website: www.neb-one.gc.ca.
 - b. In the left column, click on Acts and Regulations.
 - c. Click on Rules, Regulations, Guidelines, Guidance Notes and Memoranda of Guidance pursuant to the *National Energy Board Act*.
 - d. Click on Filing Manual.
2. Send us your application for the proposed activity, which includes the location and the information required by Guide C of the Filing Manual. Your application should be addressed to:

Secretary of the Board
National Energy Board
517, Dixième Avenue S.-O.
Calgary (Alberta) T2R 0A8

Or sent by fax to: 1-877-288-8803

3. Send a copy of your application to the pipeline company as well, so it can review the information and forward any comments it may have to the NEB.

Have Questions? Don't hesitate to contact us. Pipeline damage prevention staff are available by phone at 1-800-899-1265 or by email at DPinfo@neb-one.gc.ca.



3. Your Responsibilities

Your Field Responsibilities

Please refer to the *Regulations, Part I* for all third party responsibilities on page 19.

Once the pipeline company has given its permission, there are four steps you must follow to comply with the *Regulations*.

1. Notify the Company by contacting it directly or by using a Provincial one-call centre

You must give the pipeline company three working-days notice before starting any work (except in the case of emergencies) and 24 hours notice before backfilling over the pipe.

Any contact with the pipe or its coating must be reported to the pipeline company immediately. Even incidents which seem minor at the time – small dents and scratches on the pipe or any damage to the coating – could lead to serious problems such as corrosion which could eventually cause the pipe to rupture.

2. Observe the Temporary Restricted Area

The temporary restricted area differs from and should not be confused with the permanent 30 metre (100 foot) safety zone located on either side of the right of way. A restricted area may be designated by the pipeline company in the vicinity of the proposed project and may extend beyond the 30 metre safety zone. When a restricted area is designated, no excavation may be performed in this area until the pipes are located and marked by the pipeline company or until the expiry of three working days after the date of the request, whichever occurs first. This period of time may be extended if both you and the pipeline company agree.

Confirm with the company representative that all the company's pipes in the construction area have been staked by the representative and that you understand the meaning of the various stakes. A misunderstanding could cause you to damage a pipe, endangering your own life and that of others.

3. Follow the Rules for Excavation Within Three Metres of the Pipe [see the Regulations, Part I, s.6(j) and (k)]

Excavation using power-operated equipment is not permitted within three metres (10 feet) of the pipe unless:

- (i) the pipe has been exposed by hand at the point of crossing or, where the excavation runs parallel to the pipe, the pipe has been exposed at sufficient intervals to confirm its location.
- (ii) where the excavation crosses a pipe, the pipeline company has informed the excavator that it has confirmed the location of the pipe by probing and the pipe is at least six tenths of a metre (2 feet) deeper than the proposed excavation.
- (iii) where the excavation runs parallel to the pipe, the pipeline company has informed the excavator that it has confirmed the location of the pipe by probing.

-
- (iv) where ground conditions render exposure of the pipe by hand impractical, the pipeline company has agreed that the excavation may be performed safely to within one metre (3 feet) of the pipe under the direct supervision of the pipeline company.

When boring directionally or using explosives, you must meet the pipeline company's conditions.

At no time are you allowed to move or alter the pipe or its fittings, or in any other way interfere with the pipe without the written consent of the pipeline company, and then only if the work is done under its direct supervision. [See the Regulations, Part I, s.6(m) and (n)]

4. Comply with the Pipeline Company's Conditions (See the Regulations, Part I, s.6(c))

The pipeline company may have made its permission conditional on meeting certain requirements. You must comply with the company's conditions, as well as with the instructions of any authorized pipeline company field representative regarding procedures when working near the right of way.

Your Responsibilities After Construction (See the Regulations, Part I, s.4 (n) and (o))

If you are the owner of the facility, you must maintain the installation in good condition so that it will not endanger the pipeline. This remains your responsibility until you can show that someone else has taken over the facility, or until it has been removed or abandoned and the site restored to the satisfaction 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 your installation if requested by the NEB. When removing your facility, any excavation required would have to be approved as described earlier in this guide. If you are abandoning your facility, the pipeline company may require that you take precautions to ensure that deterioration of the facility does not pose a threat to the pipe.

4. Unauthorized Construction and Excavation Activities

What is the NEB's response to Reports of Unauthorized Construction and Excavation Activities near Pipelines?

When the appropriate permission for an excavation or construction activity is required and not obtained, or when safety instructions are not followed, that activity is considered unauthorized and the pipeline company is required to report them to the NEB as per the Pipeline Crossing Regulations, Part II. These unauthorized activities are illegal, and non-compliance with s.112 of the NEB Act or with the Regulations is an offence. Since 3 July 2003, they are also designated violations subject to a monetary penalty under the *NEB's Administrative Monetary Penalties Regulations* (AMPs). For more information on AMPs, please visit the following website: <http://www.neb-one.gc.ca/clf-nsi/rpblctn/ctsndrgltn/rrggnmgpnb/dmnstrvmntrypnlts/cntctsamp-eng.html>.

The NEB will take all available and appropriate actions to protect Canadians and the environment. All reports of unauthorized construction or excavation activities near pipelines will be taken seriously, and categorized as a low risk or high risk activity.

Low Risk Activities could include one, or a combination, of the following:

- No immediate hazard exists
- Within the Safety Zone but more than 3 metres from the physical pipe
- No permission from the pipeline company was requested or written permission obtained

High Risk Activities could include one, or a combination, of the following:

- A hazard exists
- An unauthorized activity has occurred within 3 metres of the physical pipe
- Unauthorized contact with physical pipe
- No permission from the pipeline company was requested or written permission obtained
- Pipeline company was notified, but person did not wait for company personnel to attend site
- Willful contravention of regulations
- Repeated low risk unauthorized activities

After being made aware of an unauthorized activity, the NEB will determine if the activity is low risk or high risk, and respond appropriately. The NEB's response could include a follow up with all parties involved by way of phone call and/or an assessment letter. The NEB will seek voluntary commitments to resolve the underlying causes of the activity from all parties. However, depending on the nature of the offence (particularly for high-risk unauthorized activities), the NEB has a variety of enforcement tools available to address non-compliances to legislative requirements.

In the event that voluntary commitments are not adhered to, or when the unauthorized activity is high risk, the NEB may:

- Order parties to stop work if a hazard exists
- Seek additional information regarding the activity
- Request information to determine underlying causes of the activity
- Obtain mandatory commitments to resolve the underlying cause of the activity
- Notify provincial worker safety authorities, if applicable
- Assess the implementation of commitments to resolve underlying causes
- Issue an administrative monetary penalty
- Recommend prosecution

For more information on the NEB's enforcement framework, please refer to the Board's website under Safety and the Environment at www.neb-one.gc.ca, or contact damage prevention staff using the contact information below.

Contact us

If you have any questions about this guide or the National Energy Board Pipeline Crossing Regulations, Part I and Part II, please do not hesitate to contact the NEB by email at DPinfo@neb-one.gc.ca or by phone at 1-800-899-1265.

You can find a copy of this document on the NEB website: www.neb-one.gc.ca.

5. Safety Checklist

The safety and security of Canadians and the environment is the NEB's top priority. We recognize that anyone who lives and works near pipelines plays a key role in pipeline safety. You can help create a safe and secure environment for you, your family and community and the environment by following this checklist.

Please note that this checklist is a guide. Refer to the Pipeline Crossing Regulations, Part I to ensure that your project follows safety and legal requirements.

- 1. Plan your activity and include time for approvals.** Approval(s) may take 10 business days to complete, depending on the project.
- 2. Contact the pipeline company** directly or through a one-call centre, where one exists, and obtain the pipeline company's written permission for the project.
- 3. Call or click before you dig.** Give 3 working days' notice to the pipeline company prior to the commencement of the approved activity unless otherwise agreed to by the pipeline company.
- 4. Observe and Learn.** Be on site when the pipeline is located and know the meaning of the pipeline markers.
- 5. Keep documents onsite.** Ensure pipeline company safety instructions and this guide are available at the worksite.
- 6. Hand expose the pipe** prior to any ground disturbance within 3 metres of the pipe.

Hand expose: To remove the soil surrounding a pipeline in a manner that does not have the potential to damage the pipeline or its coating.

- 7. Notify the pipeline company** one working day before backfilling over the pipe.
- 8. ALWAYS follow the instructions** of a pipeline company representative.
- 9. Notify the company of any changes to the project, in case there are safety considerations.**

YOU MUST IMMEDIATELY NOTIFY THE PIPELINE COMPANY IF YOU HAVE COME INTO CONTACT WITH THE PIPE.



Appendix 1

National Energy Board Contact

For information concerning pipeline crossings:

dpinfo@neb-one.gc.ca

1-800-899-1265

Mailing Address

National Energy Board
517 Tenth Avenue SW
Calgary, Alberta T2R 0A8
Facsimile: 403-292-5503
www.neb-one.gc.ca

Appendix 2

Provincial One Call Centres

There may be buried utilities in the ground such as: electrical cables, high pressure gas lines, television cables, water lines, oil lines, etc. It is important to know what is in the ground before you dig to protect you, the public and the environment.

Many pipeline companies under the NEB jurisdiction are members of provincial one-call centres where they exist.

New Brunswick

Saint John 1-866-344-5463 www.info-ex.com

Québec

Info-Excavation: 1-800-663-9228 www.info-ex.com

Ontario

Ontario One Call System: 1-800-400-2255 www.on1call.com

Manitoba

Click Before You Dig Manitoba 1-800-940-3447 www.clickbeforeyoudigmb.com

Saskatchewan

1st Call: 1-866-828-4888 www.sask1stcall.com

Alberta

Alberta One Call Corporation: 1-800-242-3447 www.alberta1call.com

British Columbia

BC One Call: 1-800-474-6886 www.bconecall.bc.ca

If you plan a mechanical excavation, you should contact a One Call centre, where one exists. The One Call centre will advise you of its member companies buried utilities in the area of your proposed activity. The One Call centre will notify its member companies about your proposed excavation and the pipeline company will mark the exact location of its facility(s).

Appendix 3

Section 112 of the National Energy Board Act, R.S.C., 1985, c. N-7

Construction of facilities across pipelines

112. (1) Subject to subsection (5), no person shall, unless leave is first obtained from the Board, construct a facility across, on, along or under a pipeline or excavate using power-operated equipment or explosives within thirty metres of a pipeline.

Use of vehicles and mobile equipment

- (2) Subject to subsection (5), no person shall operate a vehicle or mobile equipment across a pipeline unless leave is first obtained from the company or the vehicle or mobile equipment is operated within the travelled portion of a highway or public road.

Terms and conditions

- (3) The Board may, on granting an application for leave under this section, impose such terms and conditions as it considers proper.

Directions

- (4) The Board may direct the owner of a facility constructed across, on, along or under a pipeline in contravention of this Act or the Board's orders or regulations to do such things as the Board considers necessary for the safety or security of the pipeline and may, if the Board considers that the facility may impair the safety or security of the operation of the pipeline, direct the owner to reconstruct, alter or remove the facility.

Exception

- (5) The Board may make orders or regulations governing
- (a) the design, construction, operation and abandonment of facilities constructed across, on, along or under pipelines;
 - (b) the measures to be taken by any person in relation to
 - (i) the construction of facilities across, on, along or under pipelines,
 - (ii) the construction of pipelines across, on, along or under facilities, other than railways, and
 - (iii) excavations within thirty metres of a pipeline; and
 - (c) the circumstances in which or conditions under which leave under subsection (1) or (2) is not necessary.

Temporary prohibition on excavating

(5.1) Without limiting the generality of paragraph (5)(c), orders or regulations made under that paragraph may provide for the prohibiting of excavations in an area situated in the vicinity of a pipeline, which area may extend beyond thirty metres of the pipeline, during the period that starts when a request is made to a pipeline company to locate its pipeline and ends:

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

Exemptions

(6) The Board may, by order made on any terms and conditions that the Board considers appropriate, exempt any person from the application of an order or regulation made under subsection (5).

Inspection Officers

(7) The provisions of sections 49 to 51.3 relating to inspection officers apply for the purpose of ensuring compliance with orders and regulations made under subsection (5).

Offence:

(8) Every person who contravenes subsection (1) or (2), a direction made under subsection (4) or an order or regulation made under subsection (5) is guilty of an offence and liable

- (a) on summary conviction, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year or to both; or
- (b) on conviction on indictment, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years or to both.

Application of subsections 121(2) to (5)

(9) Subsections 121(2) to (5) apply, with any modifications that the circumstances require, to an offence under subsection (8).

“pipeline” in section 2 of the *NEB Act* is defined as follows:

“pipeline” 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, 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.

Appendix 4

National Energy Board Pipeline Crossing Regulations, Part I, SOR/88-528

Short Title

1. These Regulations may be cited as the *National Energy Board Pipeline Crossing Regulations, Part I*

Interpretation

2. In these Regulations,

“Act” means the *National Energy Board Act; (Loi)*

“emergency” means an unexpected situation that could endanger life or cause substantial property or environmental damage and that requires immediate action; (*urgence*)

“excavator” means the person who performs an excavation and includes the corporation or other legal entity and every agent, affiliate and subcontractor of the corporation or other legal entity that has direct control over the person performing the excavation; (*exécutant de travaux d’excavation*)

“facility” means

- (a) any structure that is constructed or placed on the right-of-way of a pipeline, and
- (b) any highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telegraph, telephone line or line for the transmission of hydrocarbons, power or any other substance that is or is to be carried across, along, upon or under any pipeline; (*installation*)

“facility owner” means a person, firm, public agency, corporation, or any combination thereof, that owns a facility or that undertakes or has control over one or more of the activities related to construction, installation, operation, maintenance or removal of a facility; (*propriétaire d’installation*)

“leave” means the leave of the Board referred to in subsection 112(1) of the Act; (*autorisation*)

“offshore area” means the submarine areas adjacent to the coast of Canada; (*endroit au large des côtes*)

“overhead line” means an above-ground telephone, telegraph, telecommunication or electric power line or any combination thereof; (*ligne aérienne*)

“permission” means the consent given by a pipeline company to a facility owner or excavator to construct or install a facility or to excavate; (*permission*)

“pipe” means the pipe and all related appurtenances that belong to a pipeline company and that are used in the transmission of hydrocarbons through a pipeline; (*conduite*)

“restricted area” means an area designated under section 9. (*zone interdite*)

Application

3. These Regulations do not apply to an excavation caused by
 - (a) a pipeline company or its agents; or
 - (b) activities, other than the construction or installation of a facility, that disturb less than three tenths of a metre of ground below the initial grade and do not reduce the total cover over the pipe.

Conditions and Circumstances Under Which Leave of the Board is not Required

4. Leave of the Board is not required for any construction or installation of a facility, other than the installation of an overhead line referred to in section 5, if
 - (a) the construction or installation of the facility takes place in an area other than an offshore area;
 - (b) the facility owner obtains written permission from the pipeline company prior to the construction or installation of the facility and accepts any conditions set out in the permission;
 - (c) the facility owner ensures that the work is carried out in accordance with the technical details that are set out in its request for permission that have been accepted by the pipeline company;
 - (d) the facility owner ensures that the work is completed within two years after the date the permission referred to in paragraph (b) is granted or within a period otherwise agreed on by the pipeline company and the facility owner;
 - (e) where permission is suspended by the pipeline company or the Board in accordance with subsection 14(1) of the *National Energy Board Pipeline Crossing Regulations, Part II*, the facility owner ceases work;
 - (f) unless otherwise agreed on by the pipeline company and the facility owner and, except in cases of emergency, three working days' notice is given by the facility owner to the pipeline company prior to commencement of construction or installation of the facility;
 - (g) in the case of an emergency, as much prior notice as is practicable is given by the facility owner to the pipeline company prior to commencement of construction or installation of the facility;
 - (h) the facility owner undertakes and complies with all practices stipulated by the pipeline company to the facility owner to lessen any detrimental effect that the facility may have on a pipe;
 - (i) prior to the construction or installation of the facility, the facility owner
 - (i) confirms with the pipeline company that all the pipeline company's pipes in the vicinity have been staked, and
 - (ii) ensures that the pipeline company has explained, to the satisfaction of the facility owner, the significance of the stakes that identify the location of the pipeline company's pipes;

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- (j) the facility owner complies with the instructions of an authorized field representative of the pipeline company regarding the procedures to be followed while working in the vicinity of a pipe;
 - (k) where interference with or alteration of a pipe is necessary, the facility owner obtains prior written consent of the pipeline company;
 - (l) where the facility owner receives the consent referred to in paragraph (k), the work is carried out under the supervision of the pipeline company;
 - (m) the facility owner immediately notifies the pipeline company of any contact with a pipeline company's pipe or its coating;
 - (n) the facility owner maintains the facility in a state of good repair compatible with the safety of the pipeline and immediately corrects any deterioration in the facility on being informed in writing by the pipeline company pursuant to subsection 15(1) of the *National Energy Board Pipeline Crossing Regulations, Part II*, except where, unless otherwise ordered by the Board,
 - (i) the facility owner provides the pipeline company with a written undertaking executed by a third party whereby the third party agrees to assume the responsibility for maintaining the facility, or
 - (ii) the facility has been removed or abandoned and the site restored to the satisfaction of the pipeline company;
 - (o) the facility owner notifies the pipeline company, in writing, of the proposed abandonment or removal of any facility affecting a pipe or right of way of the pipeline; and
 - (p) the facility owner removes or alters any facility that could impede the safe and efficient operation of the pipeline, or that the Board considers should be removed or altered for the protection of property and the environment and the safety of the public and the pipeline company's employees.
5. Leave of the Board is not required for the installation of an overhead line across a pipeline if
- (a) unless otherwise agreed on by the pipeline company and the facility owner and, except in cases of emergency, three working days' notice is given by the facility owner to the pipeline company prior to commencement of installation;
 - (b) in the case of an emergency, as much prior notice as is practicable is given by the facility owner to the pipeline company prior to commencement of installation;
 - (c) the overhead line is installed in accordance with the minimum ground-to-wire clearance established by the Canadian Standards Association Standard CAN/CSA-C22.3 No. 1-M87, *Overhead Systems*, the English version of which is dated April 1987 and the French version of which is dated December 1989;
 - (d) where the pipeline is patrolled by aircraft, aerial warning devices are installed and properly maintained by the facility owner at the request of the pipeline company; and
 - (e) no poles, pylons, towers, guys, anchors or supporting structures of any kind are constructed or placed on the right of way of the pipeline or within its projected limits.
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6. Leave of the Board is not required for an excavation, other than an excavation referred to in section 7, if
- (a) the excavation takes place in an area other than an offshore area;
 - (b) the excavator obtains written permission from the pipeline company prior to the excavation and accepts any conditions set out in the permission;
 - (c) the excavator ensures that the work is carried out in accordance with the technical details that are set out in its request for permission that have been accepted by the pipeline company;
 - (d) the excavator ensures that the work is completed within two years after the date the permission referred to in paragraph (b) is granted or within a period otherwise agreed on by the pipeline company and the excavator;
 - (e) where permission is suspended by the pipeline company in accordance with subsection 14(1) of the *National Energy Board Pipeline Crossing Regulations, Part II*, the excavator ceases work;
 - (f) unless otherwise agreed on by the pipeline company and the excavator and, except in cases of emergency, three working days' notice is given by the excavator to the pipeline company prior to commencement of the excavation;
 - (g) in the case of an emergency, as much prior notice as is practicable is given by the excavator to the pipeline company prior to commencement of the excavation;
 - (h) prior to commencement of the excavation, the excavator
 - (i) confirms with the pipeline company that all the pipeline company's pipes in the vicinity have been staked, and
 - (ii) ensures that the pipeline company explains, to the satisfaction of the excavator, the significance of the stakes that identify the location of the pipeline company's pipes;
 - (i) the excavator does not excavate mechanically within a restricted area;
 - (j) the excavator does not excavate mechanically within three metres of a pipe unless
 - (i) the pipe has been exposed by hand at the point of crossing or, where the excavation runs parallel to the pipe, at sufficient intervals to confirm the location of the pipe,
 - (ii) where the excavation crosses a pipe, the pipeline company has informed the excavator that it has confirmed the location of the pipe by probing, and the pipe is at least six tenths of a metre deeper than the proposed excavation,
 - (iii) where the excavation runs parallel to the pipe, the pipeline company has informed the excavator that it has confirmed the location of the pipe by probing, or
 - (iv) where ground conditions render exposure of the pipe by hand impractical, the pipeline company has agreed that the excavation may be performed safely to within one metre of the pipe, and the pipeline company directly supervises the excavation;

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- (k) when boring directionally or using explosives, unless otherwise authorized by the Board, the excavator complies with the conditions imposed by the pipeline company respecting directional boring or the use of explosives;
 - (l) the excavator complies with the instructions of an authorized field representative of the pipeline company regarding the procedures to be followed while working in the vicinity of a pipe;
 - (m) where interference with or alteration of a pipe is necessary, the excavator obtains prior written consent of the pipeline company;
 - (n) where the excavator receives the consent referred to in paragraph (m), the work is carried out under the supervision of the pipeline company;
 - (o) the excavator immediately notifies the pipeline company of any contact with the pipeline company's pipe or its coating; and
 - (p) unless otherwise agreed on by the pipeline company and the excavator, the excavator notifies the pipeline company at least 24 hours prior to backfilling over the pipe.
7. Leave of the Board is not required for an excavation required for the maintenance of an existing facility if the circumstances and conditions set out in paragraphs 6(f) to (p) are met.
 8. Where leave of the Board is required, the facility owner or excavator shall file an application for leave with the Board and serve a copy of the application for leave on the pipeline company.
 9. When a pipeline company receives a request from a facility owner or an excavator to locate its pipes, the pipeline company may designate an area situated in the vicinity of the proposed facility or excavation, which may extend beyond 30 m from the pipeline, as a restricted area in which no excavation may be performed until the pipes are located and marked by the pipeline company or the expiry of three working days after the date of the request, whichever occurs first, unless the pipeline company and the facility owner or excavator have agreed on an extension of time for the pipeline company to locate and mark the pipes.

National Energy Board Pipeline Crossing Regulations, Part II, SOR/88-529

Short Title

1. These Regulations may be cited as the *National Energy Board Pipeline Crossing Regulations, Part II*

Interpretation

2. In these Regulations,

“Act” means the *National Energy Board Act*; (Loi)

“excavator” means the person who performs an excavation and includes the corporation or other legal entity and every agent, affiliate and subcontractor of the corporation or other legal entity that has direct control over the person performing the excavation; (*exécutant de travaux d'excavation*)

“facility” means

- (a) any structure that is constructed or placed on the right-of-way of a pipeline, and
- (b) any highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telegraph, telephone line or line for the transmission of hydrocarbons, power or any other substance that is or is to be carried across, along, upon or under any pipeline; (*installation*)

“facility owner” means a person, firm, public agency, corporation or any combination thereof, that owns a facility or that undertakes or has control over one or more of the activities related to construction, installation, operation, maintenance or removal of a facility; (*propriétaire d’installation*)

“leave” means the leave of the Board referred to in subsection 112(1) of the Act; (*autorisation*)

“permission” means the consent given by a pipeline company to a facility owner or excavator to construct or install a facility or to excavate; (*permission*)

“pipe” means the pipe and all related appurtenances that belong to a pipeline company and that are used in the transmission of hydrocarbons through a pipeline; (*conduite*)

Application

3. These Regulations do not apply to an excavation caused by
 - (a) a pipeline company or its agents; or
 - (b) activities, other than the construction or installation of a facility, that disturb less than three tenths of a metre of ground below the initial grade and do not reduce the total cover over the pipe.

Pipeline Company Responsibilities

4. (1) Every pipeline company shall establish an ongoing public awareness program to inform the public of
 - (a) the presence of the pipeline; and
 - (b) the public’s responsibilities regarding any construction or installation of a facility and any excavation that might affect the pipeline.
- (2) Every pipeline company shall assess the effectiveness of its public awareness program on a regular basis and shall maintain a record of the assessment.
5. (1) Every pipeline company shall develop detailed guidelines setting out the technical and other information to be included in requests for permission referred to in paragraph 4(b) or 6(b) of the *National Energy Board Pipeline Crossing Regulations, Part I*, and shall make those guidelines public.
- (2) The guidelines referred to in subsection (1) shall be submitted to the Board for approval prior to release to the public.
6. (1) Where a pipeline company receives a request for permission, pursuant to paragraph 4(b) or 6(b) of the *National Energy Board Pipeline Crossing Regulations, Part I*, in accordance with the guidelines referred to in section 5, the pipeline company shall, within ten working days after receiving the request, inform the facility owner or excavator

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- (a) whether permission has been granted; and
 - (b) where permission has been refused, of the reasons for the refusal.
 - (2) Where permission is granted pursuant to subsection (1), unless the pipeline company and the facility owner or excavator agree otherwise, the permission lapses if the construction or installation of the facility or the excavation is not completed within two years after the date the permission was granted.
 7. Where a facility owner or excavator applies for leave of the Board, the pipeline company shall, within ten working days after receiving a request for information relevant to the application, give the facility owner or excavator all the information, and provide all reasonable assistance, needed to prepare the application.
 8. Where a pipeline company receives a copy of an application for leave that has been filed with the Board, the pipeline company shall, within 10 working days after receiving the copy of the application, send to the Board its comments, if any, regarding the safety of the proposed facility or excavation in respect of the pipeline.
 9. (1) Subject to subsection (2), when a pipeline company receives a request from a facility owner or an excavator to locate its pipes, the pipeline company shall, within three working days after the date of the request, or any longer period agreed to by the pipeline company and the facility owner or excavator
 - (a) inform the facility owner or excavator, in writing, of any special safety practices to be followed while working in the vicinity of its pipes;
 - (b) mark the location of its pipes in the vicinity of the proposed facility or excavation at maximum intervals of 10 m along each pipe using stakes that are clearly visible and distinct from any other stakes or markings that may be in the vicinity of the proposed facility or excavation: and
 - (c) explain the significance of the stakes to the satisfaction of the facility owner or excavator.
 - (2) Where ground conditions preclude the placing of the stakes referred to in subsection (1), paint or other suitable methods of marking may be substituted if the paint or marking is
 - (a) clearly visible;
 - (b) distinct from all other markings in the vicinity of the proposed facility or excavation; and
 - (c) compatible with any local standard colour codes used for marking buried pipe.
 10. The pipeline company shall
 - (a) carry out such inspections as are necessary to ensure the continued safety of the pipeline during the period of excavation in the vicinity of a pipe and backfilling over a pipe;
 - (b) inspect all exposed pipe prior to backfilling to ensure that no damage to a pipe has occurred;
 - (c) in respect of the inspections referred to in paragraphs (a) and (b), maintain a record of all findings and observations; and
 - (d) include in the record referred to in paragraph (c) the following information:
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- (i) the name of the person conducting the inspection,
 - (ii) the date and time of the inspection, and
 - (iii) any field observations relating to
 - (A) where a pipe was exposed during the construction or installation of a facility or during an excavation, the clearance between the pipe and the facility and the condition of the pipe at the time of backfilling over the pipe,
 - (B) whether the facility owner or excavator has met the circumstances and conditions set out in the *National Energy Board Pipeline Crossing Regulations, Part I*,
 - (C) the method of excavation, and
 - (D) any unusual events during the construction or installation of the facility or during the excavation that may have had an effect on the safety or integrity of the pipeline.
11. (1) The pipeline company shall maintain records of all construction or installation of facilities and of all excavations for the useful life of the pipeline.
- (2) The records referred to in subsection (1) shall include, for each facility or excavation, as the case may be,
- (a) the name and address of the facility owner and excavator;
 - (b) the nature and location of the facility or excavation;
 - (c) the dates of commencement and termination of the construction or installation of the facility or of the excavation;
 - (d) a description of the facility, submitted by the facility owner with the request for permission;
 - (e) a copy of the pipeline company's written permission to the facility owner or excavator or an indication that leave of the Board was granted;
 - (f) a copy of every inspection record maintained pursuant to paragraph 10(c);
 - (g) a statement whether the facility owner or excavator has met the circumstances and conditions set out in the *National Energy Board Pipeline Crossing Regulations, Part I*; and
 - (h) the details of the abandonment, removal or alteration of any facility.
12. (1) On the request of the Board, the pipeline company shall provide the Board with a list of every permission granted pursuant to the *National Energy Board Pipeline Crossing Regulations, Part I*.
- (2) The list referred to in subsection (1) shall include the information referred to in paragraphs 11(2)(a) to (c).

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13. (1) The pipeline company shall immediately report to the Board
 - (a) every contravention of the *National Energy Board Pipeline Crossing Regulations, Part I*;
 - (b) all damage to its pipe caused or observed during the construction or installation of a facility or during an excavation or during the operation, maintenance or removal of a facility; and
 - (c) any activity of the facility owner or excavator that the pipeline company considers to be potentially hazardous to a pipe.
 - (2) The report referred to in subsection (1) shall include
 - (a) details of any contravention or of any damage, including, in the case of damage, the cause and nature thereof;
 - (b) any concerns the pipeline company may have regarding the safety of the pipeline as a result of the construction or installation or of the excavation; and
 - (c) any action the pipeline company intends to take or request.
 14. (1) Where the pipeline company or the Board is satisfied that unsafe construction practices have been or are being used, the pipeline company or the Board may suspend, for such period as it considers necessary, the permission given by the pipeline company to construct or install a facility or to excavate.
 - (2) Where a pipeline company suspends its permission pursuant to subsection (1), the pipeline company shall immediately notify the Board of its decision giving its reasons therefor.
 15. (1) The pipeline company shall make such inspections as are necessary to ensure that any deterioration of a facility that might adversely affect a pipe is detected, and shall inform the facility owner, in writing, of any deterioration that is detected.
 - (2) Where an inspection made pursuant to subsection (1) reveals deterioration of a facility sufficient to warrant removal of the facility, the pipeline company shall inform the Board.
 16. Every person required by these Regulations to keep records shall make the records, and all other materials necessary to verify the information therein, available to officers of the Board and other persons authorized by the Board for that purpose, and shall give the Board and other authorized persons every assistance necessary to inspect the records.



Appendix 5

Mailing List Request Form

If you're interested in receiving updates directly from the NEB by mail, please send a complete copy of the form below (Appendix 5) and mail or fax it to the NEB.

Request to Be Included on Mailing List for Updated Information

National Energy Board
Regulatory Support Office
517 10 Ave SW
Calgary AB, T2R 0A8
Facsimile: 403-292-5503

Please add me to mailing list L19 to receive updated information.

Name: _____

Title: _____

Organization: _____

Mailing Address: _____

City: _____

Province/Territory: _____

Postal Code: _____ Telephone: _____



Thank you for taking the time to learn about the NEB's regulatory process for pipeline projects. We hope this guide has answered many of your questions.

Publications may be ordered by:

- Mailing a request to NEB Library at the mailing address below
- Visiting the NEB Library located on the second floor
- Telephone: 403-299-4800 or 1-800-899-1265
- Fax: 403-292-5576
- E-mail: publications@neb-one.gc.ca

The NEB's Mailing address is:

National Energy Board
517 Tenth Avenue SW
Calgary, Alberta T2R 0A8
Telephone: 403-292-4800 or
Toll Free: 1-800-899-1265
Fax: 403-292-5503
Toll Free Fax: 1-877-288-8803
TTY: 1-877-288-8803
E-mail: landsinfo@neb-one.gc.ca

For general information about the NEB and the energy sector:

- Mail: General Inquiries at the above address
- Telephone: 403-292-4800 or 1-800-899-1265
- Fax: 403-292-5503
- E-mail: info@neb-one.gc.ca or for lands specific information: landsinfo@neb-one.gc.ca

For settling compensation matters, please contact:

Natural Resources Canada (NRCan)
Pipeline Arbitration Secretariat
580 Booth Street, 17th Floor
Ottawa, Ontario K1A 0E4
Phone: 613-947-5664
Fax: 613-995-1913
E-mail: pas-sap@nrccan.gc.ca (or pas-sap@nrccan.gc.ca in French)
www.pas.nrccan.gc.ca (or www.sap.nrccan.gc.ca in French)

