



# Land Matters Consultation Initiative

Canada

## Land Matters Consultation Initiative Streams 1, 2 and 4

### Final Report

May 2009

National Energy  
Board



Office national  
de l'énergie

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## **1. Introduction**

In the fall of 2007, the National Energy Board (the Board or the NEB) announced that, as part of its review of key land issues, the Land Matters Consultation Initiative (LMCI) would be established. The decision resulted from the Board's desire to support continual improvement related to land matters, and confirmed the Board's belief that constructively engaging interested people and organizations would be an effective approach. On 25 February 2008, the Board identified outcomes to be achieved through the LMCI so that land matters could be more appropriately and effectively included in the Board's public interest considerations and also to foster and maintain effective working relationships between companies and landowners.

The Board considered the LMCI topics in four streams:

1. Company Interactions with Landowners;
2. Improving the Accessibility of NEB Processes;
3. Pipeline Abandonment – Financial Issues; and
4. Pipeline Abandonment – Physical Issues.

In February and March 2008, Discussion Papers were released for each stream. In March 2008, Hearing Order RH-2-2008 was issued for Stream 3: Pipeline Abandonment – Financial Issues. The hearing occurred in January 2009. For Streams 1, 2 and 4, the Board held meetings and workshops in 25 communities across Canada. At those consultation sessions, the Board provided information about the LMCI and the three topic areas. Participants were invited to clarify the issues to be resolved and to offer ideas for improvement. Over 400 people participated in the meetings including landowners, pipeline company representatives, representatives from towns and municipalities, Aboriginal groups, regulators and representatives from various government departments. In addition to the input received at the meetings and workshops, 13 groups and individuals made written submissions to the Board.

From the outset of the LMCI, the Board has worked closely with the Canadian Energy Pipeline Association, the Canadian Alliance of Pipeline Landowners' Associations, l' Union des producteurs agricoles and the Canadian Association of Petroleum Producers. Regular discussions with representatives of these groups have helped to increase the understanding between parties of their concerns and expectations and to identify where improvements could be made.

Discussion Papers, Hearing Order RH-2-2008, meeting summaries, written submissions and Summaries of Consultations are available on the Board's website at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) under Land Matters Consultation Initiative on the right-hand side of the home page.

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## **2. Summary of Input Received**

The key issues that were raised during the LMCI are highlighted below. For additional information about the input received from parties and all the issues raised, please refer to the Summaries of Consultations, meeting summaries and the written submissions on the Board's website ([www.neb-one.gc.ca](http://www.neb-one.gc.ca)).

### **Stream 1 – Company Interactions with Landowners**

- Landowners expressed a desire for more respectful, consistent and transparent interactions with company representatives.
- Companies are seeking clarity on NEB expectations for notification and consultation programs.
- Landowners and companies see value in an increased community presence for the NEB throughout the facility lifecycle, and particularly in the project planning phase and during operations.
- Landowners requested the development of standard easement agreements to build confidence that landowners are being treated consistently.
- Landowners are seeking clear, consistent and straightforward practices with respect to crossing pipeline rights of way with farming equipment.
- Landowners also questioned the NEB's knowledge of and sensitivity to agricultural issues.

### **Stream 2 – Increasing the Accessibility of NEB Processes**

- Many parties indicated that the lack of participant funding for certain NEB regulatory hearing processes is a significant barrier to being able to participate effectively.
- In addition to participant funding, offering process advisory services and more electronic and print materials in plain language would go some way to make it easier to be involved in NEB processes.
- Energy company representatives expressed reservations about the added value of a broader participant funding program and indicated that such a program may reduce the efficiency and timeliness of the Board's regulatory processes.
- Landowners and companies see value in the early resolution of issues and would support the NEB in developing processes to support this objective.
- Pipeline company representatives indicated that regulatory processes are fundamentally sound and expressed interest in exploring options to share expert research rather than assuming that each party should develop their own expert advice; company representatives also requested increased clarity and consistency in NEB activities, particularly related to inspections of company operations.

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- Landowners requested an increased oversight role for the NEB in monitoring company field operations.

Stream 4 – Pipeline Abandonment – Physical Issues

- The uncertainty of regulatory jurisdiction of pipelines after abandonment and the potential for landowner liability is a primary concern for landowners.
- A number of environmental concerns were expressed about the end-state of land; industry representatives requested that objective, consistent and predictable criteria be used as guiding principles for abandonment planning.
- Many landowners requested that pipelines be removed upon abandonment; industry representatives focused on developing an objective, risk-based set of criteria to establish appropriate abandonment methodologies.
- Several parties identified additional issues for further study and expressed interest in participating in a future study group.

Input relevant to all Streams

- Industry submitted that, based on the results of landowner surveys conducted in 2003 and 2008, the majority of landowners are satisfied with pipeline operations on their property.
- One party noted that the LMCI findings should apply to facilities and operations in the North as well as southern Canada.

### **3. The NEB's Response**

Industry has been subject to regulatory oversight related to land matters for many years. The Board is of the view that based on survey results, observations from NEB field activities and direct input from the public during regulatory and non-regulatory proceedings, the NEB's current regulatory processes are adequate in the majority of instances. At the same time, there are landowners across Canada who believe that processes could be improved and are seeking change. Just as farming operations, other land-uses and societal expectations evolve over time, so too must industry and regulatory practices. The Board is committed to improving its processes, and acknowledges that companies strive to improve their performance and meet the expectations of the regulator. This commitment has resulted in progress over time; however in the Board's view, the LMCI has confirmed that there is scope for continual improvement in how the Board, landowners and industry deal with land matters. The Board has found many parties to be willing to work towards improved outcomes in all areas of the Board's land responsibilities.

A **roadmap for change** has been developed from the LMCI and the Board believes it will result in improvements for the issues raised relating to company interactions with landowners, accessibility of NEB processes and physical issues of abandonment. As a result of LMCI, the Board is committed to the following:

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- Extending the Board’s current regulatory approach that is in place for other aspects of the NEB’s mandate, such as safety, security and protecting the environment, to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities. This goal-oriented, risk-based approach for the full lifecycle of facilities will be a cornerstone for making improvements related to land matters, and will include:
  1. setting expectations for company performance related to respecting the rights and interests of those affected; and,
  2. extending the Board’s current monitoring approach in order to verify that companies are operating consistently with Board expectations in the area of respecting rights and interests.<sup>1</sup>
- Building on the effective consultation and engagement practices that are already being used and continuing to work proactively toward the vision where landowners’ concerns are addressed early through constructive dialogue.
- Continuing to work with Natural Resources Canada (NRCan) to identify opportunities to develop and implement a more complete participant funding program for NEB hearings related to facilities.
- Following through on all of the actions identified in Appendix 1 of this document, in collaboration with parties who have expressed interest.
- Clarifying the NEB’s regulatory approach to abandonment.

With these commitments, landowners and others affected by NEB-regulated facilities can expect:

- An increase in NEB outreach to provide more information about the NEB and about the rights and responsibilities of landowners and companies;
- On-going process assistance from Board staff to make it easier to participate in NEB hearings;
- Increased NEB monitoring of company performance related to respecting the rights and interests of those affected; and,
- Over time, increasing clarity on the steps that will be followed and the criteria that will be considered when a pipeline is proposed to be abandoned.

Pipeline companies and proponents for pipeline projects can expect:

- Additional direction from the Board on the expected elements of company programs related to respecting the rights and interests of those affected by NEB-regulated facilities and activities;

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<sup>1</sup> Respecting the rights and interests of those affected by NEB-regulated facilities and activities is a key component of regulating in the public interest and has been highlighted in a revised goal in the Board’s Strategic Plan for 2009-2012. Other key components include safety, protecting the environment and working toward efficiently functioning energy markets. See Appendix 2 for an overview of the Board’s approach to regulating throughout the full lifecycle of a project.

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- Consistent Board practices for the regulatory programs focused on safety, integrity, security, the environment, and respecting the rights and interests of those affected;
- Increased NEB monitoring of company performance related to respecting the rights and interests of those affected;
- A risk-based lifecycle approach for regulatory oversight, which will increase or decrease over time depending on the company's track record for achieving the expected results and the consequences associated with company's facilities; and,
- An on-going commitment to effective, efficient and predictable processes to support the responsible development of Canada's energy infrastructure.

#### **4. Further Action by Interested Parties**

The Board encourages companies and interested parties to find solutions to the concerns expressed through the LMCI related to minimum standards or best practices for easement agreements and vehicle crossings of pipeline rights of way. CEPA has indicated a willingness to explore common ground for these issues, described as follows:

- *Develop additional guidance on the land acquisition process and easement agreements.*

Landowners expressed concerns about the lack of information available to them at the time they are asked to commit to an easement agreement. While the NEB Act sets out minimum requirements for easement agreements, the specific agreements are private contracts between the landowner and the company. The NEB has limited authority to specify the expected content for the agreements. A standard easement agreement or best practices for easement agreements developed between industry and other interested parties could be a very helpful tool to increase the efficiency and effectiveness of future negotiations. Upon request, the Board would be pleased to assist in these discussions.

- *Develop additional guidance for vehicles crossing pipeline rights of way.*

Under the NEB Act, permission to move vehicles or mobile equipment across the right of way is provided by the pipeline company. Clear expectations for landowners and industry/landowner standards related to: blanket crossing agreements; definition of "normal farming operations" and "normal farm equipment"; depth of cover; and, company response times for crossing requests would support safe and efficient pipeline and agricultural operations. The Board is of the view that clearer expectations in this regard will contribute to the overall safety and security of pipeline companies' and landowners' operations on rights of way.

The NEB strongly encourages interested parties to work together to develop standards to address this matter. In parallel, as described in Action 1.2 in Appendix 1, the Board has incorporated the requirement for companies to have a program to manage the movement of vehicles and mobile equipment in the current draft of the Board's Damage Prevention Regulations. The result of discussions among interested parties will be incorporated in the guidance notes to the Damage Prevention Regulations.



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Upon request, the Board would be pleased to assist in these discussions as well. In January 2010, the Board will assess whether further steps towards standards are required to promote safety and security in the area of crossings.

## **5. LMCI Information for Natural Resources Canada**

Input was received through the LMCI relating to policy matters within the mandate of NRCan. The NEB is providing an overview of the information that could be helpful to NRCan if it were to consider policy changes in these areas. If NRCan decided to examine one or more of these policy areas, the NEB would be pleased to work with NRCan to assess and, if appropriate, implement any changes.

Following are the issues raised through the LMCI that relate to NRCan policy matters:

- *Participant funding*

Participant funding is considered by many to be a prerequisite to effective public participation in regulatory hearings. Landowners, Aboriginal groups and non-government organizations consistently noted that broader participant funding should be provided to support effective participation in NEB hearings.

The objective would be to complement funding already available through the NEB Act for Detailed Route Hearings and section 46 matters, and through the Canadian Environmental Assessment Agency for review panels and comprehensive studies. NEB public hearings involve a wide range of stakeholders affected by energy infrastructure. Legislative changes would be required for the NEB to implement a participant funding program for facilities hearings.

- *Consider developing guidance material and assessing possible changes to NRCan processes for negotiation and arbitration related to compensation matters (Pipeline Arbitration Secretariat).*

Stakeholders suggested that additional guidance material should be available directly from NRCan and written in plain language to help parties understand the process so that they can make informed decisions about their potential participation. There was a desire for the material to include information on the process for appointing negotiators and arbitrators, the existing compensation mechanisms for negotiation and arbitration, any information that could be provided about past arbitration decisions and expected timelines for the negotiation and arbitration processes.

Participants also suggested that a review be undertaken on the negotiation and arbitration processes.

- *Arbitration and negotiation processes when a pipeline is abandoned.*

It is unclear whether the remedies provided to landowners to negotiate and arbitrate compensation matters contemplate the complete lifecycle of an energy infrastructure project

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(e.g., abandonment). Landowners requested clarification of the processes that would be available to them to determine compensation related to pipeline abandonment.

## **6. Conclusion**

Stream 1 focused on company interactions with landowners. The actions identified in Stream 1 will provide additional direction from the Board on expectations for company programs, increase NEB monitoring of company performance, and ensure consistent Board practices for regulatory programs. These actions will contribute positively towards ensuring that the rights and interests of those affected by energy infrastructure are respected in the design, construction, operation and maintenance, and abandonment of a pipeline system.

Stream 2 focused on improving the accessibility of NEB Processes. The actions identified in Stream 2 will increase the level of NEB outreach activities, provide on-going process assistance from Board staff, and provide an on-going commitment to effective, efficient and predictable processes. The Board is committed to working with interested parties to strive for continual improvement within the current regulatory framework.

Through RH-2-2008, the Stream 3 hearing on the financial aspects of pipeline abandonment, the Board has implemented a framework and action plan to meet the goal of having adequate funds available for the abandonment of pipelines regulated under the NEB Act,

There were a number of physical issues of abandonment raised during consultations on Stream 4 which, in the Board's view, require further research and a multi-stakeholder approach to resolve. The Board also noted key non-physical issues with respect to abandonment and landowner concerns for potential liability. The NEB is of the view that the outcomes from the Stream3 and 4 actions will mitigate these concerns.

The Board has a mandate to make decisions that balance the interests of all Canadians. It is the Board's view that the roadmap for change developed through the LMCI will bring about concrete improvements which will achieve an appropriate balance among landowners, project proponents and others impacted by infrastructure development. The Board looks forward to continuing the constructive and collaborative approaches that have been established through the LMCI so that there can be continual improvement in the Board's regulatory approaches to land matters for the benefit of Canadians.

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**Appendix 1**

**LMCI Actions Table**

**Stream 1 Actions**

Action	Objective	Implementation Approach	Estimated Timing to complete the action
<p>1.1 Extend the Board's current regulatory approach that is in place for other aspects of the NEB's mandate such as safety, security and protecting the environment to encompass respecting the rights and interests of those affected by NEB-regulated facilities and activities. In order to extend its regulatory approach, the Board will:</p> <ul style="list-style-type: none"> <li>• Set expectations for companies</li> <li>• Develop a monitoring approach to verify company performance</li> <li>• Develop enforcement mechanisms, as needed</li> </ul> <p>Refer to Appendix 2 for more information about the NEB's Regulatory Approach and the regulatory program related to respecting the rights and interests of those affected.</p>	<p>Establish a more systematic program approach to respecting the rights and interests of those affected by NEB-regulated facilities and activities</p>	<p>Continual improvement of NEB processes (e.g., application assessments, inspections, company meetings, measures) to support the extension of the Board's current regulatory approach.</p>	<p>Ongoing</p>
		<p>Obtain a better understanding of existing company programs through the following steps:</p> <ol style="list-style-type: none"> <li>1. Provide companies and interested parties with the NEB's draft expectations for Public Involvement Programs</li> <li>2. Gather feedback from companies and interested parties on the NEB's draft expectations regarding Public Involvement Programs.</li> <li>3. Conduct voluntary and non-regulatory assessments of company Public Involvement Programs using draft expectations as a guide.</li> </ol>	<p>Spring 2009</p> <p>Summer 2009</p> <p>Starting in fall 2009, continuing over the subsequent 12 months</p>
		<p>Decision on the need for and the extent of changes (e.g., further Board guidance, orders, or revisions to current regulations) that would be required to effectively support the NEB's regulatory program.</p>	<p>2010</p>
		<p>Communicate the results of the decision with companies and interested parties, including a discussion of any next steps for the development and implementation of the NEB's regulatory program.</p>	<p>2010</p>

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<b>Action</b>	<b>Objective</b>	<b>Implementation Approach</b>	<b>Estimated Timing to complete the action</b>
1.2 Develop additional guidance on crossings to support safety and security of pipelines	Improve the understanding of rights and responsibilities of all parties within the NEB mandate	<p>Provide additional guidance on NEB expectations regarding crossings. The requirement for company programs to manage the movement of vehicle and mobile equipment is included in the current draft version of the Damage Prevention Regulations and associated guidance notes.</p> <p>As noted in section 4 of the LMCI Report, the Board is also encouraging interested parties to work together to develop standards of crossing related issues such as: blanket crossing agreements; definitions of “normal farming operations” and “normal farm equipment”; depth of cover; and company response times for crossing requests.</p> <p>In January 2010, the Board will assess whether further steps towards standards are required to promote safety and security in the area of crossings.</p>	2010
1.3 Develop a standard landowner information package	Improve the understanding of existing rights and responsibilities of all parties within the NEB mandate	Provide additional guidance for landowners (e.g., a standard landowner letter that includes contact information for the NEB, an offer to talk directly with an NEB representative, information about the NEB regulatory approach, information on landowner rights and responsibilities, an explanation of NEB processes).	Fall 2009
1.4 Improve NEB understanding of agricultural issues	Address the perceived gap that the NEB has limited capacity with respect to agricultural issues	Improve communications to ensure that the Board's awareness of and expertise in agricultural matters are clearly demonstrated.	2010

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**Stream 2 Actions**

<b>Action</b>	<b>Objective</b>	<b>Implementation Approach</b>	<b>Estimated Timing to complete the action</b>
2.1 Apply the NEB's Appropriate Dispute Resolution (ADR) program more extensively in the pre-hearing phase to resolve conflicts between parties	Facilitate negotiated agreements among parties	Engage stakeholders on program design for voluntary ADR services to facilitate the early resolution of issues (e.g., clarify expectations, roles and responsibilities; define scope of the program; determine performance measures; discuss timing and funding issues).	Fall/Winter 2009/2010
		Communicate program design and expectations to stakeholders.	Spring 2010
		Pilot program on 2+ proposed facilities.	2010 (depends on hearings)
		Monitor and report on performance measures for pilot projects; adjust program; finalize program and communicate changes to stakeholders.	2010/2011
2.2 Develop and implement a broader participant funding program for facilities hearings to complement existing funding mechanisms in the NEB Act and CEA Act	Complement funding already available through the NEB Act for Detailed Route Hearings and section 46 matters and through the Canadian Environmental Assessment Agency for review panels and comprehensive studies	If NRCan decided to examine this policy area, the NEB would work with NRCan to assess, and if appropriate, implement any changes.	N/A
2.3 Provide additional process support to non-industry intervenors	Increase the capacity of non-industry intervenors to participate in NEB hearing processes	Develop "intervenors' guide" or similar documentation.	Fall 2009
		Develop samples of past standard hearing documents or templates to be accessed by intervenors.	Fall 2009
		Define and formalize the role of "process advisor" for intervenors and train NEB staff to perform the role.	Fall 2009
		Develop training modules for intervenors on process (e.g., "how to be an intervenor 101" training) and assess effectiveness of training.	Fall 2009

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<b>Action</b>	<b>Objective</b>	<b>Implementation Approach</b>	<b>Estimated Timing to complete the action</b>
		Deliver intervenor process training sessions on a pilot basis for 2 hearings.	Fall 2009, or when hearing opportunity arises.
		Measure and report on effectiveness of training; adjust program.	2010
		Finalize program and communicate to stakeholders.	2010/2011
2.4 Make changes to the hearing process to improve accessibility	Enable intervenors to more effectively participate in NEB hearings	Identify where to use existing hearing tools more extensively: <ul style="list-style-type: none"> <li>• e.g., as appropriate, use technical conferences more frequently to facilitate less formal exchanges between intervenors.</li> </ul>	On-going
		Identify where to design and implement new hearing tools: <ul style="list-style-type: none"> <li>• e.g., assess the possibility of the hiring third-party experts to provide information on technical matters to all hearing participants.</li> </ul>	Fall 2009
2.5 Expand the NEB's outreach efforts to provide more information about the NEB's role and processes	Increase the capacity of affected stakeholders to understand and access NEB processes by more actively engaging parties on an ongoing basis	Identify opportunities to disseminate information about the NEB and its role to Aboriginal organizations, landowner associations and other groups, including in Northern Canada, in order to expand the NEB's engagement program throughout the life span of regulated facilities.	Fall 2009
		Review NEB publications and identify opportunities to write documents in plain language. Identify where new publications are required to assist the public in understanding the NEB's processes (e.g., see previous reference to "intervenors' guide" in Action 2.3).	Summer 2009
		Review the NEB website and identify opportunities to improve its functionality (e.g., make it easier to search for information about facilities, past and present applications).	Winter 2009/2010

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Action	Objective	Implementation Approach	Estimated Timing to complete the action
2.6 Clarify and expand the NEB's existing inspection program and role during the construction and operations phase of a facility	Increase affected stakeholders' understanding of the NEB's role throughout the life of a facility; create opportunities to more effectively engage parties; and identify and resolve conflicts before they escalate	Identify appropriate opportunities within existing inspection programs to: <ul style="list-style-type: none"> <li>engage landowners during inspections;</li> <li>do pre- and post-construction inspections in agricultural areas.</li> </ul>	Fall 2009
		Identify opportunities to participate on local liaison committees as a means to identify and resolve conflicts before they escalate (i.e., partner this action with Action 2.5 on expanding outreach efforts).	Fall 2009
2.7 Establish a working group with parties involved in or impacted by pipeline development to meet regularly with Board staff on land matters.  (Proposed pilot project for 1 year)	Develop effective working relationships so that issues and opportunities can be addressed collaboratively with Board staff and among parties.	Develop Terms of Reference with interested parties	Summer 2009
		Proceed according to the Terms of Reference	Fall 2009

**Stream 4 Actions**

Action	Objective	Implementation Approach	Estimated Timing to complete the action
4.1 Develop principles for the end-state of land post-abandonment	Provide guidance for abandonment planning	Draft principles were released for comment; final principles to be published as an amendment to the Guidance Notes that accompany the <i>Onshore Pipeline Regulations</i> and a reference placed in the Filing Manual.	Draft – January 2009 Final – Summer 2009
4.2 Clarify the nature of the Board's jurisdiction post-abandonment and outline the Board's regulatory approach to abandonment	Provide clarity to address the concerns of stakeholders	Advisory letter to parties.	letter sent 2 February 2009

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<b>Action</b>	<b>Objective</b>	<b>Implementation Approach</b>	<b>Estimated Timing to complete the action</b>
4.3 Develop verification and compliance processes for the abandonment phase	Address the need for development of performance measures and compliance monitoring in the abandonment phase	Use existing audit, inspection and enforcement tools to develop an approach to measuring performance of abandonment plans in the abandonment phase	2010
4.4 Initiate discussions with stakeholders to develop a multi-stakeholder study group	Address knowledge gaps on the physical issues of abandonment	Develop terms of reference and seek support and participation from stakeholders. Work will be initiated in 2009 and will be on-going.	2009
4.5 Assess need for inter-jurisdictional agreements for the abandonment phase and the transition of residual property	Address lack of certainty with respect to transition of residual property post-abandonment	Initiate discussions with industry and other jurisdictions to determine the need for agreements and protocols. Participate as required on an on-going basis to ensure efficient outcomes.	2009
4.6 Assess outcomes of Stream 3 and announce Board intentions for further action if required	Address concerns of liability, to the extent that the Board can, post-abandonment	Assess and respond, as appropriate, after outcomes of Stream 3 are released	2009



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**Appendix 2**

**The NEB's Approach to Regulating Pipeline Facilities**

The Board's purpose is to 'promote safety and security, environmental protection and economic efficiency in the Canadian public interest within the mandate set by Parliament in the regulation of pipeline, energy development and trade.' The NEB has 5 goals in its Strategic Plan that were developed to ensure delivery of the Board's purpose. The goals were revised for 2009-2012.

The goals are:

Goal 1 – NEB-regulated facilities and activities are safe and secure, and are perceived to be so.

Goal 2 – NEB-regulated facilities are built and operated in a manner that protects the environment.

Goal 3 – Canadians benefit from efficient energy infrastructure and markets.

Goal 4 – The rights and interests of those affected by NEB-regulated facilities and activities are respected.

Goal 5 – The NEB delivers quality outcomes through innovation and leadership.

By setting goals one through four, the NEB identifies public interest areas and develops regulatory programs to support these public interest areas. A regulatory program includes setting and communicating expectations for regulated companies, following up with regulated companies to verify performance against the expectations (e.g., evaluating the adequacy, implementation and effectiveness of company programs), and taking action to improve company performance

With the goal-oriented regulatory strategy, the NEB identifies performance goals that companies must meet. Regulated companies are responsible to meet the performance goals and are permitted to develop the specific means and the procedures that are adequate and effective for their own unique circumstances and operations.

The following principles guide the NEB in its development and implementation of regulatory programs to ensure clarity and consistency with the regulatory approach (i.e., goal-oriented, risk-based, focused on management systems, and covers the entire lifecycle):

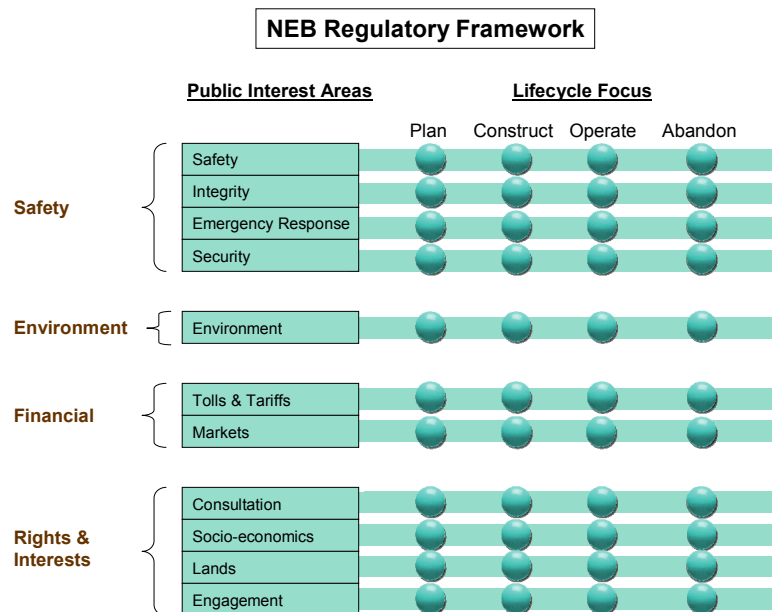
- The NEB identifies the public interest areas for which companies will be subject to regulatory oversight.
- For each public interest area identified, the NEB:
  - Sets expectations for the industry that it regulates in order to develop a shared understanding of outcomes (i.e., affirms goal-oriented outcomes through regulations, guidance notes or other means so that companies design and implement adequate and effective programs to encompass each stage of the facility lifecycle);

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- Monitors and verifies company performance with regards to the expectations set out (i.e., the NEB designs its compliance processes to test whether or not regulated companies have developed and implemented appropriate management practices and to assess the adequacy and effectiveness of their programs); and
- Applies enforcement, where applicable, to ensure satisfactory company performance.
- The NEB uses risk-based decision-making to:
  - identify and prioritize issues;
  - evaluate public interest circumstances (i.e., the impact and severity of the impact of a regulated facility) and identify the corresponding degree of NEB oversight; and
  - evaluate company performance (i.e., the extent to which a company has demonstrated the adequacy, implementation and effectiveness of its programs) and identify the corresponding degree of NEB oversight.
- The NEB supports the use of best practices within each identified public interest area.
- The NEB is committed to reporting results transparently and publicly under each identified public interest area (e.g., the annual Safety Performance Indicators Report, the NEB Annual Report, and the Hydrocarbon Transportation Report).

Table 1 illustrates the public interest areas the NEB has identified to date and the consistent ‘program’ approach to regulating impacts for each interest area throughout the pipeline facility lifecycle.

**Table 1**



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One of the Board's public interest areas is "the rights and interests of those affected". This has been part of the Board's public interest considerations for many years, and as previously discussed in the NEB Stream 1 Discussion Paper (dated 26 February 2008), the Board is developing a goal-oriented, risk-based approach related to respecting the rights and interests of those affected by NEB-regulated facilities and activities. This approach will be consistent with the Board's established approach for other public interest areas (i.e., safety, security, environment and financial) and will enable the Board to take a more systematic approach to respecting the rights and interests of those affected by NEB-regulated facilities and activities. The LMCI actions arising from Streams 1 and 2 will support the development and implementation of this program.

Outcomes from the Stream 3 hearing (RH-2-2008) on the financial aspects of pipeline abandonment will be assessed and consideration will be given to whether or not additional actions should be taken to provide further clarity on the Board's regulatory approach for financial matters.

As an outcome of Stream 4 of the LMCI, the Board has sent a letter dated 2 February 2009 clarifying and outlining the NEB's regulatory approach to the physical aspects of abandonment. The Board also intends to address knowledge gaps on the physical issues of abandonment which may warrant a further review of the Board's expectations with respect to abandonment. As well, the Board will develop verification and compliance processes for the abandonment phase.