

Consultation Paper:

**International and Interprovincial  
Power Line Damage Prevention  
Regulations (Authorizations)**

**International and Interprovincial  
Power Line Damage Prevention  
Regulations (Obligations of Holders  
of Permits and Certificates)**





# CONSULTATION PAPER

## International and Interprovincial Power Line Damage Prevention Regulations (A) Authorizations and (B) Obligations of Holders of Permits and Certificates

### INTRODUCTION

The Government of Canada is continuing consultations on the development of the *International and Interprovincial Power Line Damage Prevention Regulations* (Regulations) to be made under the Canadian Energy Regulator Act (CER Act), proposed under [Bill C-69](#). The CER Act updates the regulatory framework for safely conducting activities near international and interprovincial power lines.

The Regulations can only be formally finalized following the Royal Assent of the proposed CER Act, which will provide the Governor in Council the authority to make the Regulations. The proposed Regulations are being released now in order to inform the ongoing legislative review of Bill C-69 (which includes the proposed CER Act) by Parliament. The proposed CER Act will come into force on a date identified by order of the Governor in Council. In order to be ready for coming into force, the final Regulations would be published in Canada Gazette, Part II, following Royal Assent. As such, this consultation paper seeks stakeholders' input on the proposed Regulations. A summary of the comments received, as well as a detailed outline of any changes to the regulatory proposal, will be provided in the Regulatory Impact Analysis Statement that will accompany publication of the Regulations, in order to provide industry and stakeholders with as much information as possible on the proposed regulatory requirements. The proposed Regulations will replace the *Power Line Crossing Regulations* made under the *National Energy Board Act* (NEB Act).

### OVERVIEW OF THE POWER LINE DAMAGE PREVENTION REGULATIONS

The new damage prevention provisions and regulation-making authorities established under the CER Act require two Regulations. Annexes A and B provide the drafts of the Regulations. Please refer to the [Damage Prevention Framework for Federally Regulated Power Lines - Discussion Paper](#) (Discussion Paper) from October 2018 for additional background information.

Annex A (Pages 9-14):

- The *International and Interprovincial Power Line Damage Prevention Regulations (Authorizations)* (IPLDPR-Authorizations) would be made by the Canadian Energy Regulator (the Regulator) under subsections 272(4) and 275(2) of the CER Act. The IPLDPR-Authorizations would set out the safety requirements for anyone planning an activity near an international or interprovincial power line regulated by the Regulator.

## Annex B (Pages 15-19):

- The *International and Interprovincial Power Line Damage Prevention Regulations (Obligations of Holders of Permits and Certificates)* (IPLDPR-Obligations of Holders) would be made by the Regulator, with the Governor in Council approval, under paragraphs 96(c) to (f) and 275(3)(b) of the CER Act. The IPLDPR-Obligations of Holders would authorize the holder to give an authorization for specific activities to be conducted near international and interprovincial power lines. The Regulations will set out the obligations of the holders to respond to requests for authorizations and to develop, implement and maintain a damage prevention program.

Appendix C (Pages 20-21) found at the end of this document provides a glossary of terms used in this document.

## **BACKGROUND**

### The regulatory framework under the NEB Act:

The process for safely conducting activities near international and interprovincial power lines is provided in the *Power Line Crossing Regulations* (PLCR). Under the PLCR, “Leave of the Board” (permission) is not required to conduct specified activities provided certain safety conditions are met. Under the NEB Act, operating a vehicle or mobile equipment across an international and interprovincial power lines (in an area other than a travelled portion of a highway or public road) is not allowed unless the holder has provided leave (permission). The PLCR does not contain provisions that govern crossings of navigable waters.

This process exists for the safety of people conducting activities near these power lines and to prevent damage to power lines while the activity is being conducted. Key safety considerations for conducting activities near power lines include contact with the power line, power outages, damage to the power line or related infrastructure, and maintaining the reliability of the electrical grid.

### Proposed CER Act:

Should Bill C-69 come into force, the CER Act would replace the NEB Act and introduce the Canadian Energy Regulator, with an adjudicative Commission, which would continue oversight of international and interprovincial power lines.

The CER Act defines international power lines as “facilities that are constructed and operated for the purpose of transmitting electricity from a place in Canada to a place outside of Canada or from a place outside Canada to a place in Canada. It does not however include an offshore power line”. An interprovincial power line is defined as “facilities that are constructed or operated for the purpose of transmitting electricity from a place in a province to a place in another province”. Holder will be defined in the Regulations as “the holder of a permit or

certificate issued under Part 4 of the CER Act in respect of an international or interprovincial power line”.

The CER Act changes the regulatory framework and regulation-making authorities for international and interprovincial power line damage prevention. The definition of “ground disturbance” is modified to apply to international and interprovincial power lines under section 275.

Under the CER Act, the power line damage prevention framework includes provisions that prohibit the following activities near international and interprovincial power lines unless authorized by Commission order or in the Regulations:

- Construction of a facility across, on, along or under an international or interprovincial power line (CER Act subsection 273(1));
- An activity causing a ground disturbance within the prescribed area (CER Act subsection 273(1)); and,
- Operating a vehicle or mobile equipment across an international and interprovincial power line unless within the travelled portion of a highway or public road (CER Act subsection 273(2)).

These prohibited activities (CER Act sections 272 to 274) apply to international or interprovincial power lines that meet the following criteria (CER Act subsection 271(1)):

- a) The holder has elected (chosen) to operate under federal law (CER Act section 259) – these are referred to as “elected international power lines”;
- b) The parts of international power lines located in a province where no provincial regulatory agency is designated (CER Act section 250);
- c) The international power lines if the facility is under federal legislative authority;
- d) The interprovincial power lines for which the Governor in Council issued an order (CER Act section 261) as requiring a certificate under the CER Act.

The CER Act maintains the prohibition to construct an international or interprovincial power line that passes on, over, along, or under a facility unless a permit or a certificate for the power line has been issued from the Regulator that contains a condition related to that facility (CER Act subsection 272(1), NEB Act subsection 58.28(1)). A person may also be granted leave for construction through an order of the Commission. The power line must be constructed in the circumstances specified in the order or in the Regulations. The IPLDPR-Authorizations will maintain the circumstances set out in the PLCR.

At this time, there are no designated interprovincial power lines to which the Regulations would apply and all interprovincial power lines are regulated by provinces. There are 85 international power lines of varying lengths; they are located in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, and New Brunswick, and have a total combined length of approximately 1,430 kilometers.

## **REGULATIONS - OBJECTIVES**

The IPLDPR-Authorizations maintain the safety requirements that already exist in the PLCR and include new requirements to align with the provisions of the CER Act. The IPLDPR-Authorizations will require any person planning to conduct the prohibited activities to first obtain authorization from the holder and to make a locate request. The authorization may contain any conditions the holder considers appropriate. The IPLDPR-Authorizations will not contain provisions that govern crossings of navigable waters. The Regulations will not apply to an offshore area.

The IPLDPR-Authorizations will include the circumstances under which the construction of a power line that passes on, over, along or under a facility (e.g. pipeline, highway, etc.) can be done if a permit or a certificate has been issued under the CER Act (subsection 272(1)).

The IPLDPR-Obligations of Holders provide authority to the holder of a permit or certificate to give an authorization to any person planning to conduct the prohibited activities near international or interprovincial power lines with any conditions that the holder considers appropriate (CER Act, paragraph 275(3)(b)). The Regulations will set out the requirements that holders must meet when authorizing work being planned near their power lines. It will clarify to holders their responsibilities for damage prevention and enhance safety through coordinated information sharing between holders, one-call centres, and anyone planning to undertake activities near power lines. For those holders who are not already members of one-call centre where one exists, they will be required to become members of a one-call centre.

A new provision in the IPLDPR-Obligations of Holders will require holders to develop, implement and maintain a damage prevention program to include public awareness requirements and a process for managing requests for authorizations, to respond to requests for locating and marking underground international and interprovincial power lines (CER Act, section 96). As part of their damage prevention program, holders will be required to conduct inspections of their international and interprovincial power lines. This includes inspecting any sections of buried power lines which were exposed, prior to backfilling, to ensure that no damage to the power line has occurred. Holders will have to provide an annual report to the Regulator containing details of contravention or of damage of the international or interprovincial power lines to facilitate effective compliance monitoring. Holders will have to maintain a record of all construction of facilities across, on, along or under an international or interprovincial power line and of all activities that cause a ground disturbance within the prescribed area.

## **PREVIOUS CONSULTATIONS**

This consultation paper builds on the [Discussion Paper](#) that was available online from 15 October to 28 November 2018. During that time, NRCan received 10 written submissions

from industry, Indigenous groups, agricultural associations, and professional surveyors. These have been posted on NRCan's website <https://www.nrcan.gc.ca/public-consultations/21689>. In addition, the Government of Canada held meetings on the Discussion Paper, with Indigenous peoples, stakeholders, and some provincial governments.

The Discussion Paper focused on the high-level principles and concepts of the Regulations and sought input on nine areas which included the: prescribed area for activities causing ground disturbances, safety measures, responding to requests for authorization, locate requests prior to conducting work near power lines, requirement for a holder to be member of a one-call centre, requirement for construction of power lines near facilities, requirement for a holder to have a damage prevention program, period to develop and implement a damage prevention program, and other comments related to the proposed Regulations. Comments received on these areas helped guide the development of the draft Regulations reproduced in Annexes A and B. Generally, submissions supported the development of the Regulations.

### Prescribed Area

Most written submissions requested additional clarity on how the prescribed area would be measured. The prescribed area was initially proposed as 30 metres on either side of the power line. Suggested alternatives included measuring the prescribed area perpendicularly from the centre point of the tower and measuring the prescribed area perpendicularly from the outermost power lines projected to ground level (for above-ground power lines).

Written submissions from industry and professional surveyors noted that the proposed distance of 30 metres may be unclear and arbitrary, sufficient for some power lines and too little for others. It was also suggested that the prescribed area should be equal to the size of the power line right-of-way (ROW). An agricultural association and several Indigenous organizations submitted that 30 metres on either side of the power line is adequate to maintain worker safety and prevent damage to power lines.

The IPLDPR-Authorizations will prescribe the area as the strip of land that the international or interprovincial power line is located within and that corresponds to the ROW of that line, recorded in the land registry office or other office where title to land is recorded for the locality in which that land is situated. If there is no ROW, the prescribed area means the strip of land measured 30 metres perpendicularly on each side from the centre of the line.

### Ground Disturbance

Written submissions indicated that the definition of ground disturbance was too broad and would trigger the need for an evaluation by holders for minor and routine ground disturbances, such as agricultural ploughing. Agricultural associations expressed concerns that requiring locate requests for agricultural activities could be burdensome. Both agricultural associations and industry supported excluding certain ground disturbance activities, such as agricultural activities, in the Regulations.

The IPLDPR-Authorizations will specify which activities will not be considered “ground disturbance”:

- (a) an activity that is caused by cultivation to a depth of less than 45 cm below the surface of the ground; or
- (b) an activity that is caused by any other activity to a depth of less than 30 cm and that does not result in a reduction of the earth cover over the buried power line.

#### Locate request prior to conducting activities and construction around federally regulated power lines

A written submission from an agricultural association indicated the need to access, and conduct activities on, agricultural land in a timely manner and requested that the three (3) day locate period be reduced to avoid potential delays. A written submission from an Indigenous organization indicated that the proposed process of a locate request seems adequate to maintain safety when conducting work near power lines. Industry noted the need for clear criteria, timelines and for applicants to submit sufficient information to the holder to allow them to analyze the hazards and risks associated with the proposed activities.

The IPLDPR-Authorizations will require any person planning activities near a power line to first obtain an authorization from the holder, and make a locate request to mark the location of any buried power lines at least three (3) working days in advance of commencing the work. This three (3) day locate period is considered the standard across Canada for buried infrastructure.

#### Damage Prevention Program

The written submissions supported the proposed requirement for a holder to have a damage prevention program for their international or interprovincial power line and to be a member of a one-call centre. A 12-month transition period, prior to the coming into force of the requirement was recommended by the industry.

The IPLDPR-Obligations of Holders will require holders of international and interprovincial power lines to establish a damage prevention program:

- (a) within 12 months after the day on which these regulations come into force, in the case of a holder that has been issued, before the coming into force of these Regulations, a certificate or permit under the Act authorizing it to construct or operate an international or interprovincial power line; or
- (b) within 12 months after the day on which the certificate or permit was issued — unless another time limit is set out in the conditions in the certificate or permit — in the case of a holder that has been issued, after the coming into force of these Regulations, a certificate or permit under the Act authorizing it to construct or operate an international or interprovincial power line.

## Operation of vehicles and mobile equipment

Industry provided written submissions that vehicles and equipment are not operated “across” overhead powerlines themselves, as worded in subsection 273(2) of the CER Act and that the Regulations should instead refer to a distance from the power line, or a defined ROW, within which the requirements apply. The written submissions also indicated that crossing authorizations for vehicles should only be required when the height of crossing vehicles poses a safety risk or differs from those routinely used for the land use in question. The Canadian Standard Association (CSA) standards code requires power lines to have clearances sufficient for the land use in question. For example, power lines located on agricultural land have high clearance requirements due to potential presence of sprayers. The submissions noted that proper power line design addresses risks associated with vehicle crossings.

Under the NEB Act (subsection 58.31(2)), operating a vehicle or mobile equipment across an international or interprovincial power line (in an area other than the travelled portion of a highway or public road) is not allowed unless the holder has provided leave (permission). Under the CER Act, operating a vehicle or mobile equipment across an international or interprovincial power line (in an area other than the travelled portion of a highway or public road) requires an authorization to be obtained through an order from the Commission or through Regulations. (CER Act, subsection 273(2)).

The IPLDPR-Authorization will require any person that intends to operate a vehicle or mobile equipment across an international or interprovincial power line to obtain an authorization from the holder (CER Act, subsection 275(2)). The IPLDPR-Obligations of Holders provide authority to the holder of a permit or certificate to give an authorization for these activities on any conditions the holder considers appropriate. (CER Act paragraph 275 (3)(b)).

## **Implementation**

The National Energy Board is preparing to implement the Canadian Energy Regulator Act, including IPLDPR-Authorizations and IPLDPR-Obligations of Holders.

### *Compliance and enforcement*

Under the CER Act, the Regulator will enforce regulatory requirements to obtain compliance, deter future non-compliance, and prevent harm by using the most appropriate tools available. The Regulator will have trained and qualified damage prevention inspection officers and enforcement personnel, and existing regulatory oversight programs. The Regulator will perform inspections and audits on a risk-informed basis.

The Regulator will use a series of compliance and enforcement tools, including audits and inspections, compliance meetings, notices of non-compliance, and orders to encourage compliance with the Regulations to minimize infractions related to safety and damage prevention. Each case is examined on an individual basis to determine the best course of enforcement to make sure damage prevention and safety requirements are followed.

## Next steps

If you have feedback or comments on this Consultation Paper and the draft Regulations, please submit them by email, fax, or mail to the address provided below. The deadline for providing comments is June 7<sup>th</sup>, 2019.

After the close of the comment period, written comments will be posted on the NRCan Public Consultations Opportunities: A New Canadian Energy Regulator web page, at <https://www.rncanengagenrcan.ca/en/collections/new-canadian-energy-regulator-0>. The final Regulations, along with a Regulatory Impact Analysis Statement (RIAS) will be published in the *Canada Gazette*, Part II, following Royal Assent of Bill C-69. A summary of the comments received, as well as a detailed outline of any changes to the proposed Regulations, will be provided in the Regulatory Impact Analysis Statement in order to provide industry, stakeholders and Indigenous groups and the public with as much information as possible on the proposed regulatory requirements.

Please visit the website for information and updates on the proposed Regulations. You may also sign up there to be included in an email distribution list for receiving updates as the Regulations are developed, including information on public engagement opportunities.

## Contact Information

Power Line Damage Prevention Regulations Team  
National Energy Board  
Suite 210, 517, Tenth Avenue SW  
Calgary, Alberta T2R 0A8  
Telephone: 403-292-4800 (or toll free at: 1-800-899-1265)  
Fax: 403-292-45503 (or toll free at: 1-877-288-8803)  
TTY (teletype): 1-800-632-1663  
Email: [PIDamagepreventionregs@neb-one.gc.ca](mailto:PIDamagepreventionregs@neb-one.gc.ca)

Departmental Contacts:  
Chantal Briand, Regulatory Policy Team  
Phone: 403-389-1209

**ANNEX A**  
**DRAFT FOR PUBLIC CONSULTATION**

## **International and Interprovincial Power Line Damage Prevention Regulations (Authorizations)**

### Interpretation

#### **Definitions**

**1** The following definitions apply in these Regulations.

*Act* means the *Canadian Energy Regulator Act*. (*Loi*)

*authorization* means an authorization issued under paragraph 275 (3) (b) of the Act. (*autorisation*)

*ground disturbance* means a ground disturbance other than one that is caused by an activity referred to in section 3. (*remueement du sol*)

*holder* means the holder of a permit or certificate issued under Part 4 of the Act in respect of an international or interprovincial power line. (*titulaire*)

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

### Prescribed Area

**2 (1)** For the purposes of subsection 273 (1) of the Act, the prescribed area means the strip of land that the international or interprovincial power line is located in and that corresponds to the right of way of that line.

#### **Right of way**

**(2)** The right of way is the land recorded as the right of way in the land registry office or other office where title to land is recorded for the locality in which that land is situated.

#### **Absence of right of way**

**(3)** If there is no right of way, the prescribed area means the strip of land measured 30 m perpendicularly on each side from the centre of the line.

## Activities — Paragraph (a) Ground Disturbance Definition, Section 2 of the Act

### Activities not included

**3** For the purposes of paragraph (a) of the definition “ground disturbance” in section 2 of the Act, the following activities are specified:

- (a) an activity that is caused by cultivation to a depth of less than 45 cm below the surface of the ground; or
- (b) an activity that is caused by any other activity to a depth of less than 30 cm and that does not result in a reduction of the earth cover over the buried power line.

## Ground Disturbance — Temporary Prohibition

### Prohibition

**4** If the holder, 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, indicates an area situated in the vicinity of an international or interprovincial power line that may extend beyond the prescribed area, the ground disturbance is prohibited within that area during the period referred to in subsection 276 (1) of the Act.

## General Provisions

### Locate request

**5 (1)** A person that intends to construct a facility across, on, along or under an international or interprovincial power line or engage in an activity that would cause a ground disturbance within a prescribed area must make a locate request 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 holder directly if the intended construction or activity is not within an area where a one-call centre exists.

### Emergency

**(2)** 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 subsection (1) does not apply, and the locate request must be made as soon as possible before the construction or activity starts.

### **One-call centre**

**(3)** 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 persons within a defined geographical area; and
- (b)** notifies its members that may be affected by any proposed construction or by any proposed activity that would cause a ground disturbance, if that construction or activity is the subject of a locate request. (*centre d'appel unique*)

### **Duty to inform**

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

## **Authorizations**

### **Construction of a Facility**

**7 (1)** The construction of a facility — in an area other than an offshore area — across, on, along or under an international or interprovincial power line, is authorized if the person that intends to construct the facility

- (a)** has obtained written authorization from the holder;
- (b)** has agreed with the holder in writing to a procedure and schedule for the work; and
- (c)** has made a locate request in accordance with section 3.
- (d)** meets the following requirements:
  - (i)** respects the conditions set out in the authorization;
  - (ii)** in respect of overhead crossings, ensures that the construction is designed and executed in accordance with CSA C22.3 No. 1, Overhead Systems, as amended from time to time; and
  - (iii)** in respect of underground crossings, ensures that the construction is designed and executed in accordance with CSA C22.3 No. 7, Underground Systems, as amended from time to time.

### **Suspension**

(2) If the authorization is suspended, the construction must cease for the duration of the suspension.

### **Measures**

(3) Any person that is undertaking the construction of a facility must ensure that the construction is carried out in accordance with the technical details that are set out in the person's request for authorization and that have been accepted by the holder, as well as with the conditions set out in the holder's authorization.

### **Ground disturbance activity**

**8 (1)** Any activity — in an area other than an offshore area — that would cause a ground disturbance within the prescribed area is authorized if the person that intends to engage in the activity

- (a) has obtained the written authorization of the holder;
- (b) has agreed with the holder in writing to a procedure and schedule for the work;
- (c) has made a locate request in accordance with section 3; and
- (d) respects the conditions set out in the authorization.

### **Suspension**

(2) If the authorization is suspended, the activity must cease for the duration of the suspension of the authorization.

### **Measures**

(3) Any person that is engaged in an activity that causes a ground disturbance within the prescribed area must

- (a) ensure that the activity is carried out in accordance with the conditions set out in the holder's authorization;
- (b) immediately notify the holder of any contact with a buried international or interprovincial power line during the activity; and
  - (i) notify the holder at least 24 hours before backfilling over a buried international or interprovincial power line, unless otherwise agreed to by the holder and the person that is engaged in the activity.

### **Operation across an interprovincial or international power line**

**9** The operation of a vehicle or mobile equipment across an international or interprovincial power line is authorized if the person that intends to operate the vehicle or mobile equipment obtains authorization from the holder.

## Paragraph 272 (1) (c) of the Act — Circumstances

### Construction of international or interprovincial power line

**10** For the purposes of paragraph 272 (1) (c) of the Act, a person may construct an international or interprovincial power line that passes on, over, along or under a facility if

- (a) in respect of overhead crossings, the power line is designed and constructed in accordance with CSA C22.3 No. 1, Overhead Systems, as amended from time to time;
- (b) in respect of underground crossings, the power line is designed and constructed in accordance with CSA C22.3 No. 7, Underground Systems, as amended from time to time;
- (c) the power line does not extend beyond any termini of that line;
- (d) the power line is designed and constructed in accordance with any applicable provincial and federal law;
- (e) the person has obtained written permission from the owner of the facility; and
- (f) the person and the owner of the facility have agreed to a written construction procedure and schedule.

## Transitional Provisions

### Leave — construction or excavation

**11 (1) Any leave granted by the National Energy Board before month/date/2019, for which no expiry date was specified, remains in force for two years from that date.**

### Leave — Crossing

**(2) Any leave granted by the holder before month/date/2019 under subsection 58.31 (2) of the *National Energy Board Act*, as it read immediately before that date, to operate a vehicle or mobile equipment across an international or interprovincial power line, remains in force until the expiry date set out in the leave granted by the holder.**

### Construction of facility

**12 The construction of a facility for which leave of the National Energy Board was not necessary before month/date/2019 under paragraph 58.33 (c) of the *National Energy Board Act*, as it read immediately before that date, may be continued after that date if it is carried out in conformity with the applicable requirements set out in paragraphs 3 (a) to (d) of the *Power Line Crossing Regulations*, as they read immediately before that date.**

## Excavation

**13** An excavation for which leave was not necessary before month/date/2019 under paragraph 58.33 (c) of the *National Energy Board Act*, as it read immediately before that date, may be continued after that date if it is carried out in conformity with the applicable requirements set out in paragraphs 3 (a) to (d) of the *Power Line Crossing Regulations*, as they read immediately before that date.

## Construction — power line under section 4

**14** The construction of an international or interprovincial power line that passes on, over, along or under a facility that was, before month/date/2019, authorized under section 58.28 of the *National Energy Board Act*, as it read immediately before that date, continues to be authorized if the construction is carried out in conformity with the applicable requirements set out in section 4 of the *Power Line Crossing Regulations*, as it read immediately before that date.

## Repeal

**15** The *Power Line Crossing Regulations*<sup>1</sup> are repealed.

## Coming into Force

S.C. 2019, c.

**16** These Regulations come into force on the day on which section X of *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, Chapter X of the Statutes of Canada, 2019, comes into force, but if they are registered after that day, they come into force on the day on which they are registered.

---

<sup>1</sup> SOR/95-500

**ANNEX B**  
**DRAFT FOR PUBLIC CONSULTATION**

## **International and Interprovincial Power Line Damage Prevention Regulations (Obligations of Holders of Permits and Certificates)**

### **Interpretation**

#### **Definitions**

**1** In these regulations,

*Act* means the *Canadian Energy Regulator Act*; (*Loi*)

*authorization* means the authorization referred to in paragraph 275 (3) (b) of the Act; (*autorisation*)

*ground disturbance* has the same meaning as in section 1 of the International and Interprovincial Power Line Damage Prevention Regulations (Authorizations); (*remuelement du sol*)

*holder* means the holder of a permit or certificate issued under Part 4 of the Act in respect of an international or interprovincial power line. (*titulaire*)

*prescribed area* has the meaning assigned by section 2 of the *International and Interprovincial Power Line Damage Prevention Regulations (Authorizations)* (*zone réglementaire*)

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

### **One-call Centre**

#### **Obligation to be a member**

**2 (1)** If a holder operates an international or interprovincial power line within a geographical area where a one-call centre exists, the holder 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 persons within a defined geographical area; and
- (b)** notifies its members that may be affected by any proposed construction or by any proposed activity that would cause a ground disturbance, if that construction or activity is the subject of a locate request. (*centre d'appel unique*)

## Authorizations

### Powers of Holder

**3** A holder may grant authorizations under paragraph 275 (1) (c), (d) or (f) of the Act and may require that the authorization be subject to any conditions that the holder considers appropriate.

## Obligations Following Request to Locate

### Duty to inform — time period

**4** If a holder receives a request to locate its underground international or interprovincial power line from a person that intends to construct a facility across, on, along or under an international or interprovincial power line or engage in an activity that would cause a ground disturbance within the prescribed area, the holder must, within three working days after the day on which the request is made, or any longer period agreed to by the holder and that person,

(a) inform the person, in writing, of safety practices to be followed while working in the vicinity of its underground international or interprovincial power line and, in case of a ground disturbance, within the prescribed area;

(b) mark the location of its underground international or interprovincial power line in the vicinity of the proposed facility or the prescribed area 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.

## Inspections by Holder

### Inspections and field observations

**5** The holder must

(a) conduct inspections in accordance with the conditions set out in the authorization granted by them to ensure the safety and security of persons and the protection of property and the environment during an activity that causes a ground disturbance within the prescribed area;

(b) inspect any exposed portions of an underground international or interprovincial power line before backfilling over it to ensure that no damage to the line has occurred; and

(c) in respect of any inspection carried out under paragraphs (a) and (b), make field observations relating to compliance with the applicable measures set out in the *International and Interprovincial Power Line Damage Prevention Regulations - Authorizations*.

## Obligation to Report

### Report to the Regulator

**6** The holder must provide an annual report to the Regulator, for the previous calendar year, containing 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 and any related impacts on the reliability of an international or interprovincial power line;
- (b)** any concerns that the holder may have regarding the international or interprovincial power line's safety, security or reliability 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 line; and
- (c)** any action the holder has taken or intends to take or request in relation to the contravention or damage.

## Management System

### Records

#### Time period — construction and activities

**7 (1)** The holder must, for the life of the power line, maintain a record of all construction of facilities across, on, along or under an international or interprovincial power line and of all activities that cause a ground disturbance within the prescribed area.

#### Contents of record

- (2)** The record must include, for each facility or each activity that causes a ground disturbance
- (a)** a copy of the written authorization granted by the holder; and
  - (b)** in respect of the inspections referred to in paragraphs 6 (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,
    - (iii)** any field observations referred to in section 6 (c); and
  - (c)** the details of any abandonment, removal or alteration of the facility.

## **Time period — certain authorizations**

**(3)** Despite subsection (1), if there is an expiry date set out in the authorization, the holder need only retain the record that contains the copy of the written authorization granted by the holder for a period of 12 months from the day on which the authorization expires.

## **Damage Prevention Program**

### **Minimum elements**

**8 (1)** The holder is required to develop, implement and maintain a damage prevention program that must include

- (a)** ongoing public awareness elements
  - (i)** of the location of an international or interprovincial power line,
  - (ii)** on how to work safely near an international or interprovincial power line,
  - (iii)** on how to report an unexpected situation related to an international or interprovincial power line, that could endanger life or cause substantial property or environmental damage, that requires immediate action,
  - (iv)** on how to report any contact with or damage to an international or interprovincial power line, whether or not the international or interprovincial power line was damaged,
  - (v)** of the services of a one-call centre, if one exists, within the relevant geographical area,
  - (vi)** on the necessity of obtaining authorization when constructing a facility across, on, along or under an international or interprovincial power line, engaging in an activity that causes a ground disturbance within the prescribed area or operating vehicles or mobile equipment across an international or interprovincial power line unless operated within the travelled portion of a highway or public road,
  - (vii)** of the information to be provided in a request for the authorization to construct a facility across, on, along or under an international or interprovincial power line, to engage in an activity that causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across an international or interprovincial power line; and
  - (viii)** of the requirement to make a locate request and on how to make a locate request;
- (b)** a process to ensure a timely response to locate requests;
- (c)** a process for locating and marking an underground international or interprovincial power line; and
- (d)** a process for managing requests for the authorization to construct a facility across, on, along or under an international or interprovincial power line, to engage in an activity that

causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across the international or interprovincial power line.

**Time limit for compliance**

(2) A holder shall establish a damage prevention program

(a) within 12 months after the day on which these Regulations come into force, in the case of a holder that has been issued, before the coming into force of these Regulations, a certificate or permit under the Act authorizing it to construct or operate an international or interprovincial power line; or

(b) within 12 months after the day on which the certificate or permit was issued — unless another time limit is set out in the conditions in the certificate or permit — in the case of a holder that has been issued, after the coming into force of these Regulations, a certificate or permit under the Act authorizing it to construct or operate an international or interprovincial power line.

## Coming into Force

S.C. 2019, c.

**9** These Regulations come into force on the day on which section X of the *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, Chapter X of the Statutes of Canada, 2019, comes into force, but if they are registered after that day, they come into force on the day on which they are registered.

## ANNEX C Glossary of Terms

### Proposed CER Act Definitions

**Ground disturbance:** means a ground disturbance other than one that

- (a) is caused by any activity that is specified in the orders or regulations made in respect of pipelines under section 335 or made in respect of international or interprovincial power lines under section 275;
- (b) is, in relation to a pipeline, caused by cultivation to a depth of less than 45 cm below the surface of the ground; or
- (c) is, in relation to a pipeline, caused by any other activity to a depth of less than 30 cm and that does not result in a reduction of the earth cover over the pipeline to a depth that is less than the cover provided when the pipeline was constructed. (CER Act, section 2)

**Holder:** the holder of a certificate or permit issued under Part III.1 of the NEB Act, and, in the future, under Part 2 and Part 4 of the CER Act in respect of a regulated facility. (CER Act, section 93, definition of *holder*)

**International power line:** means facilities that are constructed or operated for the purpose of transmitting electricity from a place in Canada to a place outside Canada or from a place outside Canada to a place in Canada. It does not however include an offshore power line. (section 2)

**Interprovincial power line:** means facilities that are constructed or operated for the purpose of transmitting electricity from a place in a province to a place in another province. (section 2)

**Navigable water:** has the same meaning as in section 2 of the *Canadian Navigable Waters Act*.

**Offshore area:** means

- (a) the part of the internal waters of Canada or of the territorial sea of Canada that is not situated in
  - (i) a province other than the Northwest Territories;
  - (ii) the *onshore*, as defined in section 2 of the *Northwest Territories Act*; and
- (b) the continental shelf of Canada and the waters superjacent to the seabed of that shelf.

**Regulator** means the corporation established under subsection 10(1) (section 2).

## **Proposed CER Act - Other terms**

### **Elected international power line (CER Act section 259)**

The applicant for, or holder of a permit or certificate may file with the Regulator, in the form prescribed by the regulations, an election that the provisions of this Act referred to in section 266 and not the laws of a province described in section 252 apply in respect of the existing or proposed international power line.

### **Designated interprovincial power line: (CER Act subsection 261(1))**

The Governor in Council may, by order,

- (a) designate an interprovincial power line as an interprovincial power line that is to be constructed and operated in accordance with a certificate issued under section 262; and
- (b) specify considerations to which the Commission must have regard in deciding whether to issue such a certificate.