



National Energy
Board

Office national
de l'énergie

National Energy Board

Proposed Damage Prevention Regulations
and Draft Guidance Notes

February/March 2009

Outline of Presentation

- Part 1: Introduction
 - What does the NEB do?
 - The NEB's Approach to Regulating
 - The Federal Regulatory Process

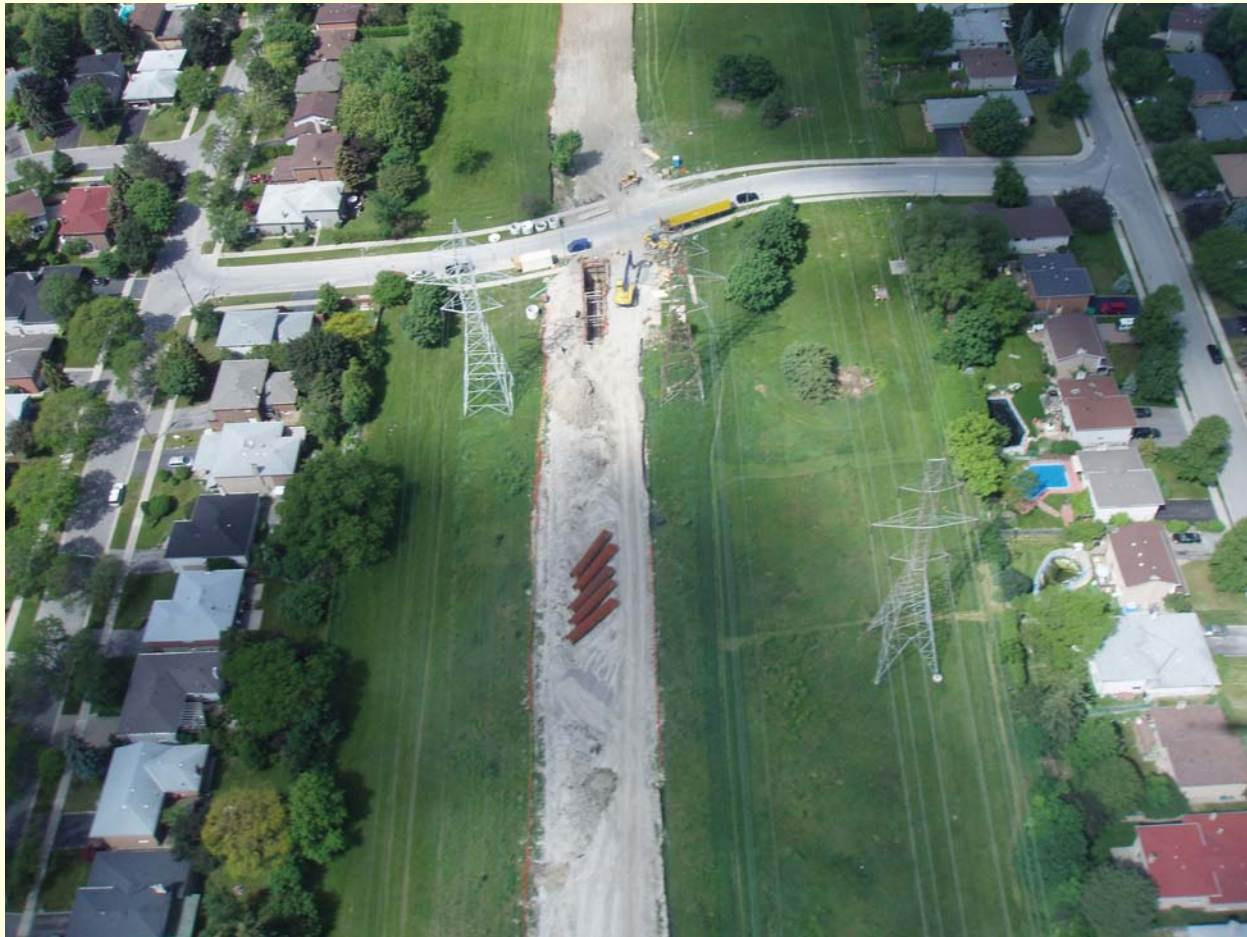


Outline of Presentation

- Part 2: The Proposed Damage Prevention Regulations
 - Background
 - NEB Approach to Damage Prevention
 - Purpose and Key Elements of the DPR
 - Next Steps



Part 1: Introduction



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What does the NEB do?

- Regulates natural gas, oil and commodity pipelines that cross a provincial or international border.
- Promotes safety and security, environmental protection and economic efficiency in the Canadian public interest within the mandate set by Parliament in the regulation of pipelines, energy development and trade.



The NEB's Approach to Regulating

- Goal oriented regulations
- Works with parties towards compliance
- Ensures compliance through audits, meetings and inspections



The NEB's Approach to Regulating cont'd

- Goal oriented regulation is a mix of approaches:
 - Prescriptive
 - the 'how' is identified, but the objective may not be:
 - you shall do 'X'
 - Goal-based & Performance-based
 - the provision contains the goal, or the outcome
 - the company identifies the method of achieving the goal or outcome (the 'how')



The NEB's Approach to Regulating cont'd

- Goal Oriented Regulations are partnered with Guidance Notes that are:
 - Administrative tools
 - Not mandatory
 - Ways that compliance can be achieved



The Federal Regulatory Process

1. Conception and Development of the Regulation
2. Drafting of the Regulation and Stakeholder Consultations
3. Examination by Justice and preliminary assessment by Treasury Board
4. Ministerial approval for pre-publication in *Canada Gazette, Part I*
5. Review by Treasury Board and Privy Council Office
6. Pre-publication in *Canada Gazette, Part I* with a Comment Period
7. Departmental preparation of proposal for final publication
8. Final review by Treasury Board and Privy Council Office
9. Publication in *Canada Gazette, Part II*
10. Parliamentary Review by the Standing Joint Committee for the Scrutiny of Regulations



Part 2: The Proposed Damage Prevention Regulations



Background

- 1988 *NEB Pipeline Crossing Regulations, Part I and II*
- 2001-2002 Surveys
- 2002 *Development of A Conceptual Draft of the Proposed National Energy Board Proposed Damage Prevention Regulations and Draft Guidance Notes*
- 2002-2003 Consultation: Focus Groups/Open Houses/Meetings
- 2005 *Draft National Energy Board Damage Prevention Regulations* posted on website for comment
- 2005-2008 Examination by DOJ and Drafting
- 2009 Proposed Damage Prevention Regulations and Draft Guidance Notes released for comment



NEB's Approach to Damage Prevention

- The NEB remains committed to working with all stakeholders to improve their understanding of federal regulatory requirements
- Communication is a key component of our strategy



Key Elements of the Proposed DPR

- Purpose
- Who the DPR applies to
- New elements
 - One-call centre
 - Damage Prevention Program
 - Define the Safety Zone
- The activities the DPR covers
- Responsibilities



Purpose:

- Ensure the safety and security of the public and NEB regulated pipelines.
- Ensure the protection of property and the environment.



Who Will These Regulations Apply To?

- Pipeline companies regulated by the NEB;
and
- Persons planning to undertake or undertaking an activity that has the potential to damage a pipeline.



One-call centre

- Pipeline companies are required to be a member of a one-call centre, where they exist
- In areas with a one-call centre persons planning an activity shall contact the centre

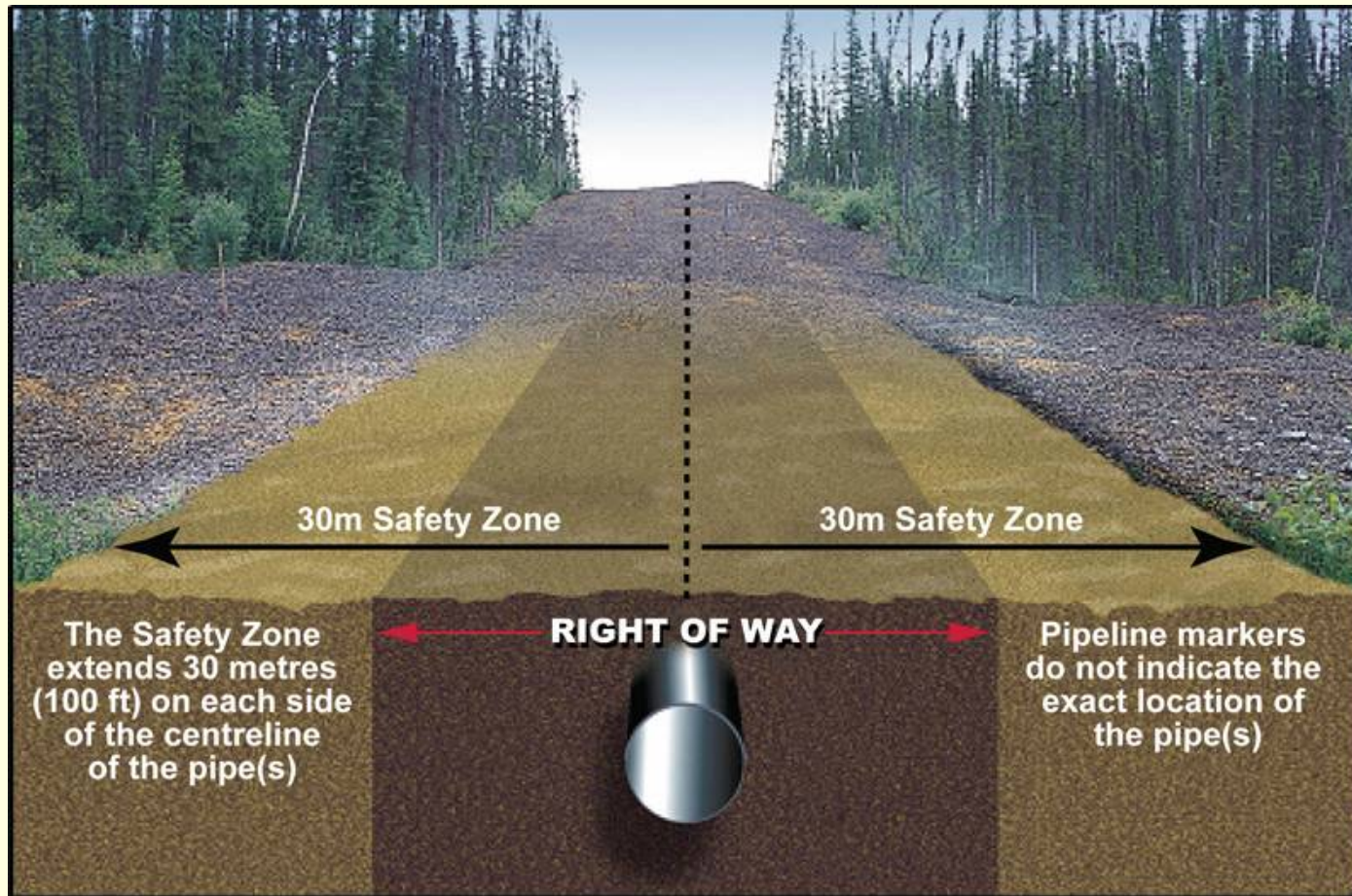


Damage Prevention Program

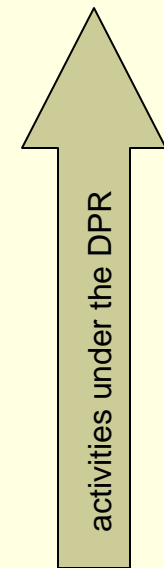
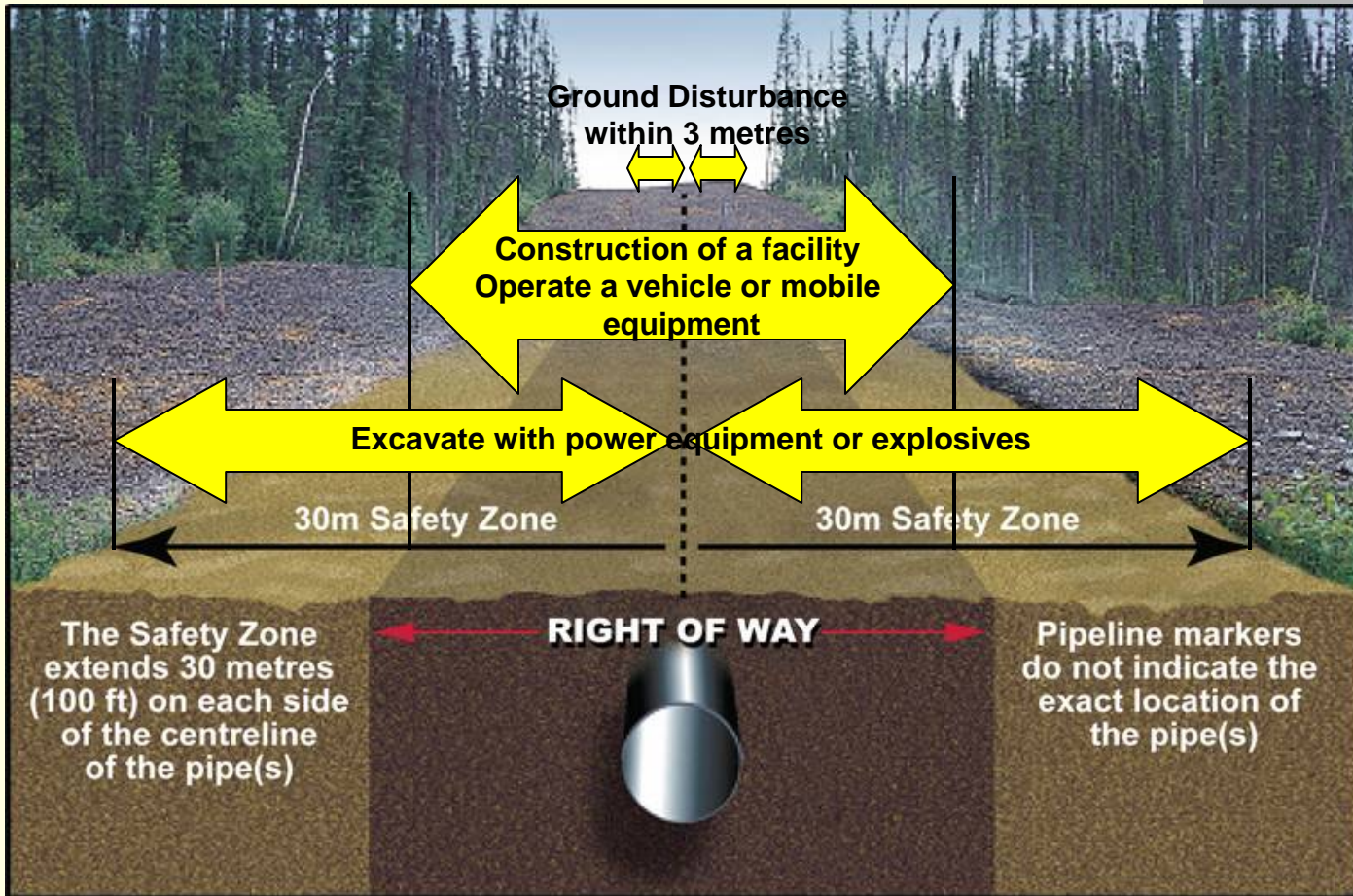
- Awareness of the:
 - existence of the pipeline
 - responsibilities of the public
 - responsibilities of the pipeline company
- Monitoring land use
- Monitoring changes in the ownership of the right of way
- Provisions for the management of the movement of vehicles and mobile equipment



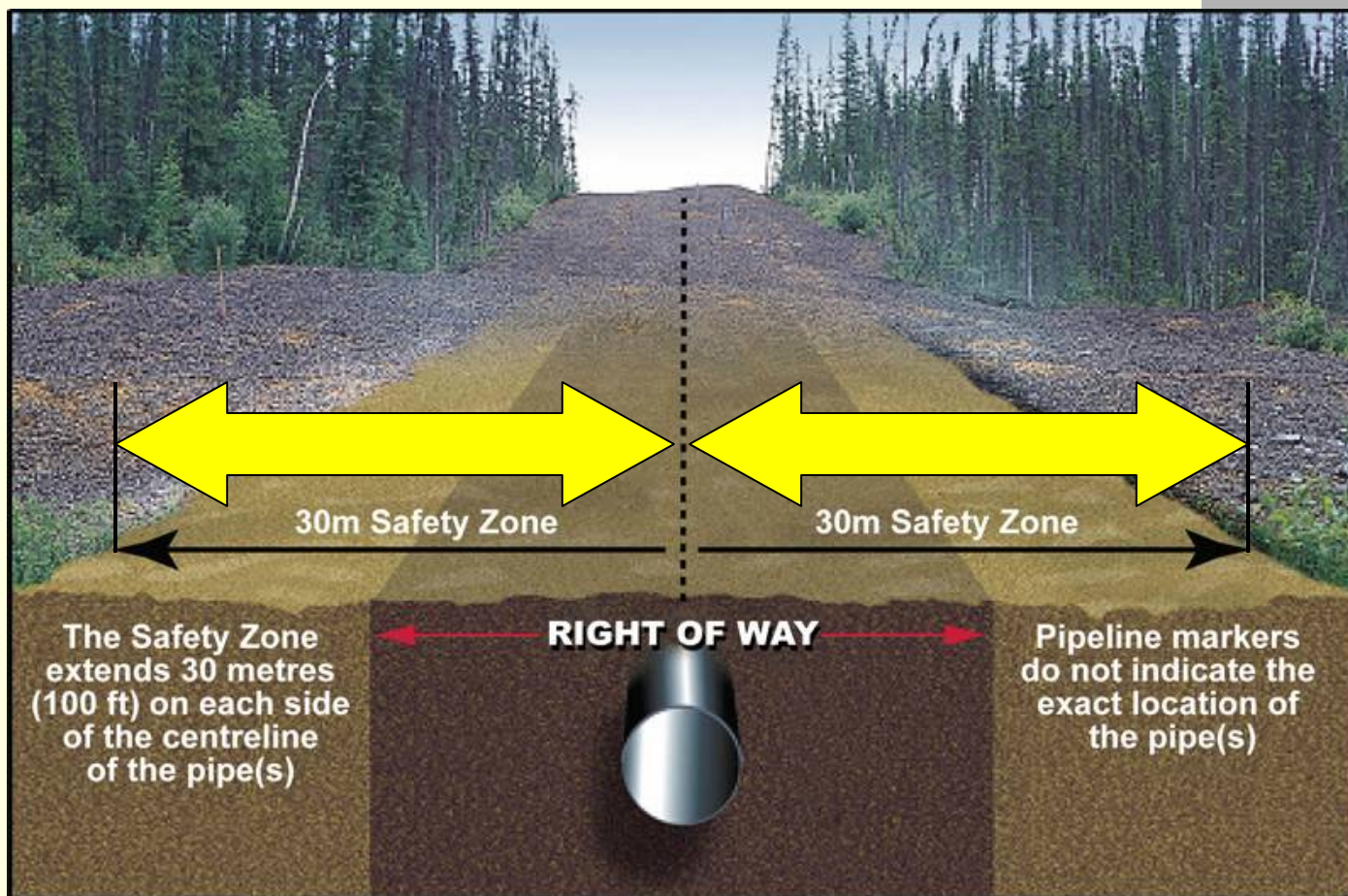
Safety Zone



Activities under the Proposed DPR



Activities under the Proposed DPR: Excavation with Power Equipment or Explosives



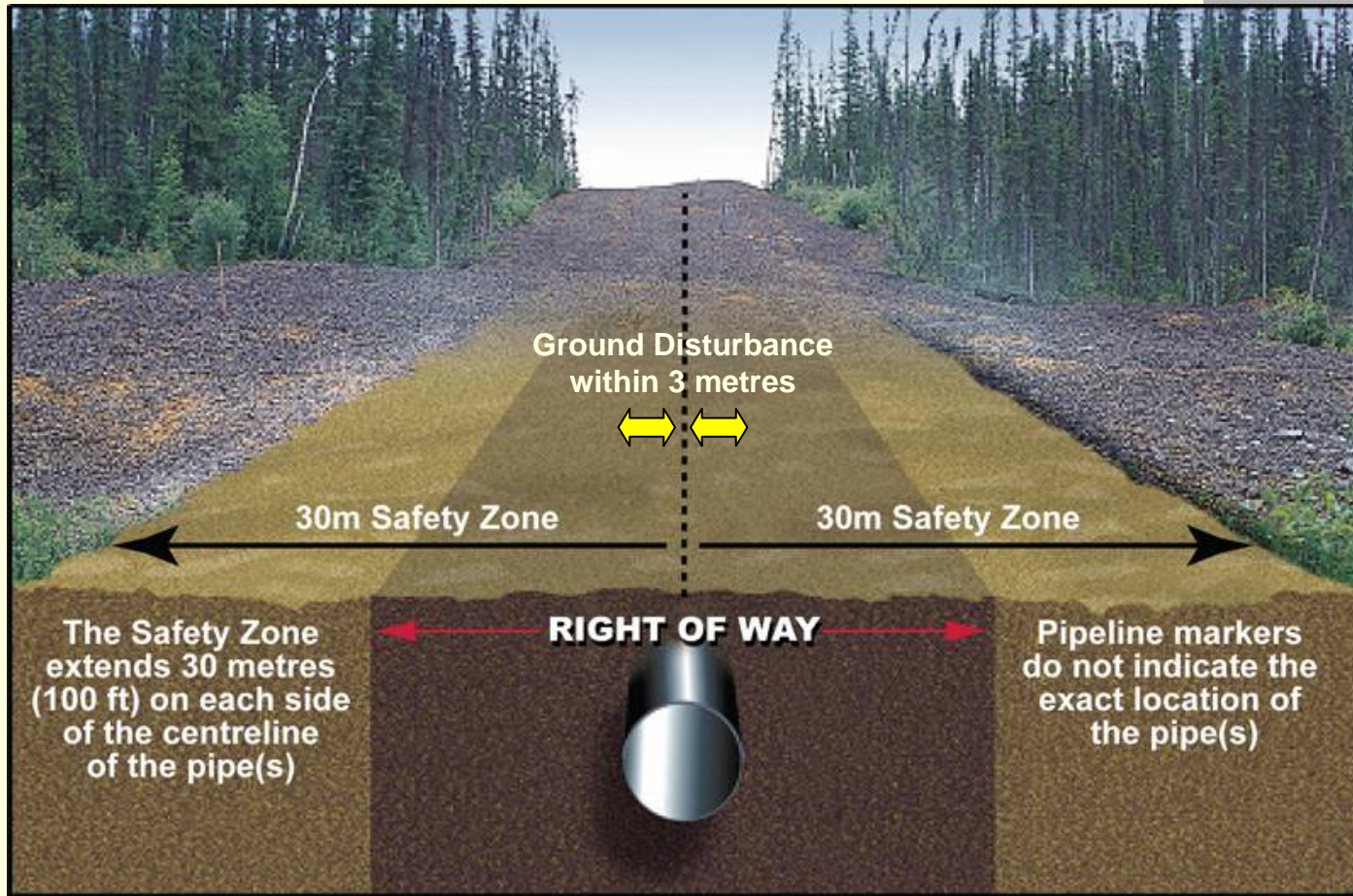
Excavating Within the Safety Zone

- Requires:
 - Locate request to a one-call centre or company at least 3 days prior to the proposed activity
 - Pipeline company to assess the impact of the proposed activity
 - If within 3 m of the centre line of the pipe, and there is a potential to damage the pipe, the pipe is to be safely exposed in the presence of a pipeline company representative

Call Before You Dig



Activities under the Proposed DPR: Ground Disturbance



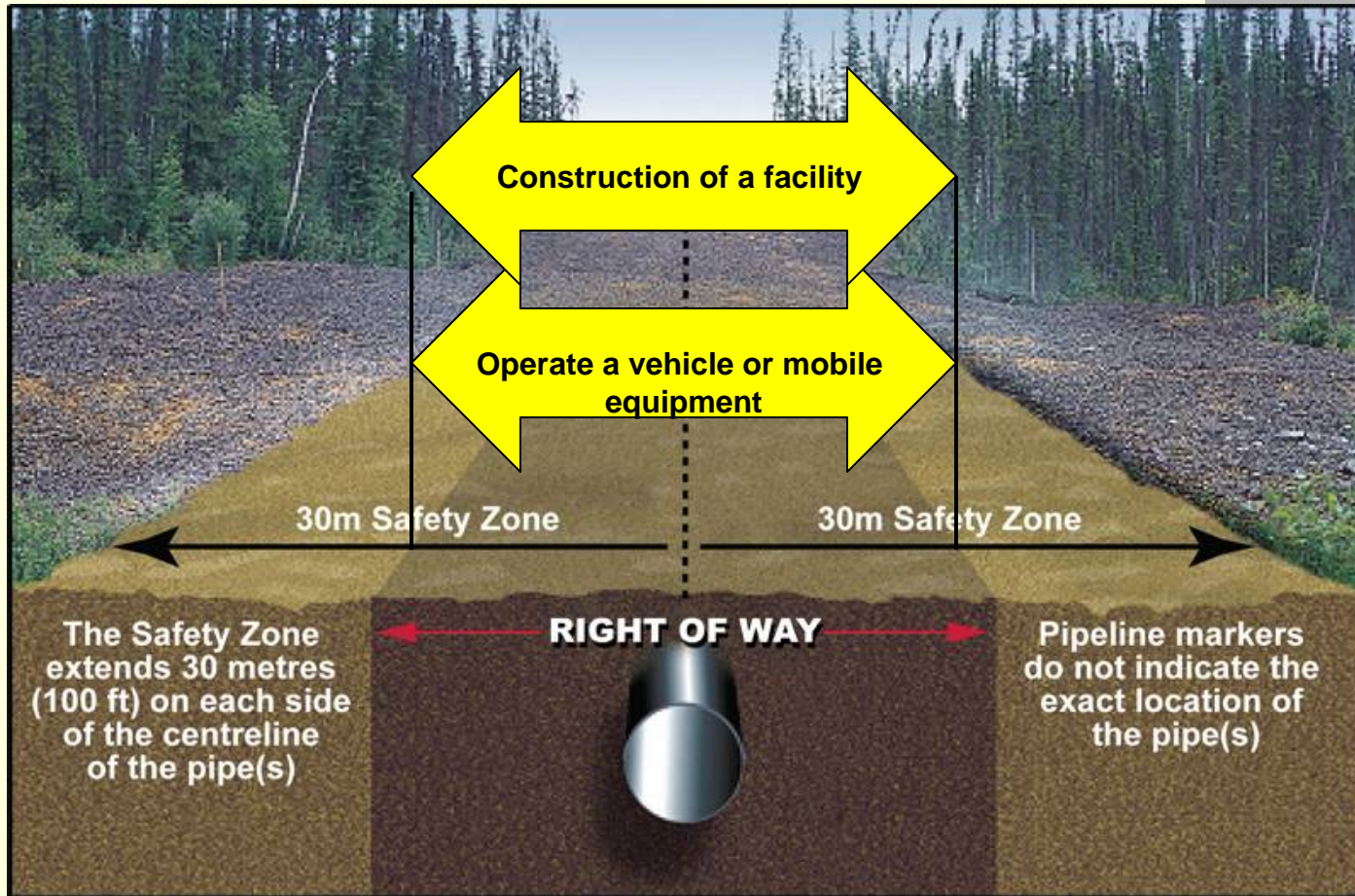
Ground Disturbance within 3 m of the centre line of the pipe

- Requires:
 - Locate request to a one-call centre or company at least 3 days prior to the proposed activity
 - Pipeline company to assess the impact of the proposed activity
 - If there is a potential to damage the pipe, the pipe is to be safely exposed in the presence of a pipeline company representative

Call Before You Dig



Construction of a facility; and Operation of a vehicle or mobile equipment



Construction of a facility; and Operation of a vehicle or mobile equipment

- Requires:
 - Pipeline company contacted directly
 - Pipeline company have the opportunity to assess the impact of the activity
 - Written agreement for construction of facilities on the right of way
 - Permission is not necessary for the operation of a vehicle or mobile equipment across a pipeline if the pipeline company has assessed the operation as not having the potential to damage the pipeline (e.g. easement agreement)



Responsibilities of Pipeline Companies:

- Have an audit program
- Have standards for locates
- Have records of qualified locators
- Determine if excavation activities will damage its pipe, locate its pipe, place surface markings, make a locate report which shall be dated



Responsibilities of Pipeline Companies

cont'd:

- Must respond within 10 working days to a request for the construction of a facility to be located across, on, along or under a pipeline;
- Provide the NEB and the person making the request with immediate written reasons why the construction of a facility over the right of way is refused
- Investigate conditions, activities, actions or omissions that might reasonably be expected to damage the pipeline or that might jeopardize the safety of the public
- Immediately report to the NEB the results of its investigations



Responsibilities of Persons Planning Activities:

- Make locate requests to a one-call centre where one exists, or directly to the pipeline company, at least three working days before:
 - excavations with power-operated equipment or explosives within the safety zone; and
 - ground disturbances within 3 metres of the centre line of the pipe
- Obtain written agreement of the pipeline company for construction on the right of way
- Permission is not necessary for the operation of a vehicle or mobile equipment across a pipeline if the pipeline company has assessed the operation



NEB Comment Period

- Comment Period ends 20 March 2009

- Comments may be submitted:
 - At any time before the end of the period
 - Send them to the NEB – mail, fax, email
 - All information and comments will be posted on the NEB website at:
 - www.neb-one-gc.ca/ActsRegulations



Dedicated e-mail addresses

- damageprevention@neb-one.gc.ca
- preventiondesdommages@neb-one.gc.ca



Next Steps

- Consider comments received
- Finalize Proposed DPR
- Prepublication in Canada Gazette, Part I
- Comment period
- Revisions if needed
- Publication of Regulations in Canada Gazette, Part II
- Finalize Guidance Notes



Questions?

