

National Energy
Board



Office national
de l'énergie

Excavation and Construction

Near Pipelines

www.neb-one.gc.ca
1-800-899-1265

Canada

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 guide 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* made thereunder, the Act and the Regulations shall take precedence.

This booklet also contains an office consolidation of the:

National Energy Board Pipeline Crossing Regulations, Part I SOR/88-528
as amended by SOR/93-239, SOR 94-704, SOR 97-128 and SOR/2000-39

National Energy Board Pipeline Crossing Regulations, Part II SOR/88-529
as amended by SOR/93-239, SOR/95-534, SOR/2000-58 and SOR/2000-384

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

© Her Majesty the Queen in Right of Canada 2011 as represented by the National Energy Board

Cat. No. NE23-31/2011E-PDF
ISBN 978-1-100-19245-1

This guide is published separately in both official languages.

Copies are available on request from:

Publications Office
National Energy Board
444 - Seventh Avenue S.W.
Calgary, AB T2P 0X8
Telephone: (403) 299-3562
(403) 292-4800
1-800-899-1265
Télécopier: (403) 292-5576

Email: publications@neb-one.gc.ca

Printed in Canada

© Sa Majesté la Reine du Chef du Canada 2011 représenté par l'Office national de l'énergie

No de cat. NE23-31/2011F-PDF
ISBN 978-1-100-97916-8

Ce guide est publié séparément dans les deux langues officielles.

Exemplaires disponibles sur demande auprès du:

Bureau de publications
Office nationale de l'énergie
444, Septième Avenue S.-O.
Calgary (Alberta) T2P 0X8
Téléphone : (403) 299-3562
(403) 292-4800
1-800-899-1265
Télécopieur : (403) 292-5576

Courriel : publications@neb-one.gc.ca

Imprimé au Canada



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Introduction

Pipelines are the safest method to transport products, such as natural gas, oil or other commodities, across the country. However, if these pipelines are damaged the result could be serious to the environment, or public safety. You have an important role to play to ensure safety. Please, call before you dig.

The *National Energy Board Pipeline Crossing Regulations*

Experience has shown that many accidents involving pipelines 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. Such damage can lead to expensive repairs as well as a loss of revenue and essential services.

The National Energy Board (the NEB) is concerned about ensuring the safety of the pipelines under its jurisdiction and pursuant to section 112 of the *National Energy Board Act* (NEB-Act) 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 will expedite your project by allowing you to obtain permission to build or excavate near the pipeline right of way directly from the pipeline company.

A copy of section 112 of the NEB Act, the definition of *pipeline* found in section 2 of the NEB Act, and the regulations have been included in the appendices of this guide for your information.

Who is Affected by the Regulations?

The regulations apply to anyone who will be excavating using power-operated equipment or explosives within 30 metres (100 feet) of the limits of the right of way (defined as the *30-metre safety zone* - see section 112 (1) of the NEB Act on page 20) 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.

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 buried 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?

The pipeline companies regulated by the NEB are listed in the appendices of this booklet (page 10 - 18). In general, the NEB regulates natural gas, oil, and commodity pipelines which extend beyond the limits of a province.

If you have any questions about these regulations, or whether a particular pipeline is regulated by the NEB, call the pipeline company. Contact Information for the NEB and for the pipeline companies regulated by the NEB have been included in the appendices of this guide.

What Do the Regulations Provide?

Part I of the regulations explains the 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 you cannot meet all the requirements of the regulations and/or the conditions of the pipeline company, you can apply to the NEB.

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

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.

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 (see section 112, *National Energy Board Act*, page 20); or
- Seismic activity within 40 metres of a pipeline right of way.

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.

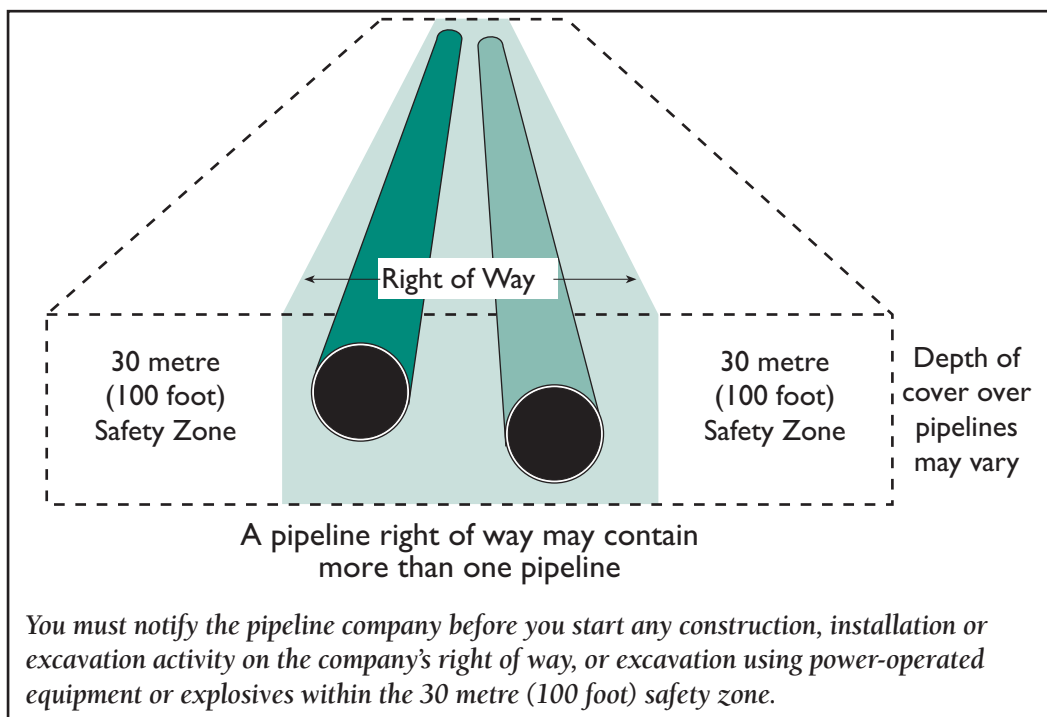
Maintenance to an Existing Facility

- When conducting excavation required for the maintenance of an existing facility, conditions outlined later in this guide must be adhered to. (See the *National Energy Board Pipeline Crossing Regulations, Part I, sec.7* on page 26)

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

How To Obtain Permission from the Pipeline Company?

Ask 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. Prepare your request for permission following those guidelines.



If you have any questions pertaining to your project, we suggest you contact the pipeline company **before** you submit your request for permission. This will allow the company to discuss your project with you and, if necessary, provide assistance.

Within ten working days of receiving your request, the pipeline company must give you its permission or provide reasons for denying or delaying its permission. **If permission is denied or delayed, you may apply to the NEB for a review of your request.**

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.

As well, the pipeline company or the NEB may suspend the permission given by the pipeline company if unsafe construction practices are used.

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 2.

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).

How to Apply Directly to the National Energy Board

To apply to the NEB, send us a letter which includes the location and full details of the proposed activity. You should refer to the NEB's Filing Manual, under tab C, which provides guidance as to the type of information the Board would typically need to make a decision. The Filing Manual can be accessed online at www.neb-one.gc.ca, click on Publications, click on Acts and Regulations, scroll down and click on Filing Manual. Copies of the Filing Manual are also available from our Library by calling 1-800-899-1265. Application should be addressed to:

Secretary of the Board
National Energy Board
444 Seventh Avenue S.W.
Calgary, AB T2P 0X8

A copy of your application must be forwarded to the pipeline company so that it can review the information and forward any comments it may have to the NEB.

If you have any questions, do not hesitate to contact us. Pipeline crossing staff contact numbers are on page 9 of this booklet.

Your Field Responsibilities

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

1. Notify the Company

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 may be established by a pipeline company field representative. During the three day period that the restricted area is in existence, no mechanical excavation in the restricted area is permitted without the prior consent and supervision of an authorized company field representative. Before you start work, be certain that you have confirmed with the 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.

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.

3. Follow the Rules for Excavation Within Three Metres of the Pipe

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,
 - (a) where the excavation runs parallel to the pipe, the pipe has been exposed at sufficient intervals to confirm its location or,
 - (b) the pipeline company has informed the excavator that it has confirmed the location of the pipe by probing.
- (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 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.

4. Comply with the Pipeline Company's Conditions

The pipeline company may have made its permission conditional on meeting certain requirements. If you accept the company's conditions, you must comply with them, 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

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.

Reminders

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 at 1-800-899-1265.

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

Safety Checklist

1. **Plan your activity** — Identify the precise location of your work; check records for evidence of pipeline easements or other buried facilities.
2. **Visit the site** and look for pipeline warning signs or pipeline marker posts.
3. **Contact the pipeline company** and obtain a copy of the pipeline company's guidelines for ground disturbances.
4. **Obtain** the pipeline company's written approval for the crossing.
5. **Make a locate request** (by calling the one-call centre where a one-call centre exists or by calling the pipeline company where there is no one-call centre) to have the pipeline located.
6. **Be on site** when the pipeline is located and know the meaning of the pipeline markers.
7. **Give 3 working days** notice to the pipeline company prior to the commencement of the approved activity unless otherwise agreed on by the pipeline company and the applicant.
8. **Hand expose the pipe** prior to any ground disturbance within 3 metres of the pipe.
9. **Notify the pipeline company** one working day before backfilling over the pipe.
10. **IMMEDIATELY NOTIFY THE PIPELINE COMPANY IF YOU HAVE COME INTO CONTACT WITH THE PIPE.**
11. **ALWAYS** follow the instructions of a pipeline company representative.



Appendix 1

Contact Lists

National Energy Board

For information concerning pipeline crossings

dpinfo@neb-one.gc.ca

1-800-899-1265

Mailing Address

National Energy Board

444 Seventh Avenue S.W.

Calgary, AB T2P 0X8

Facsimile: (403) 292-5503

www.neb-one.gc.ca



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 therefore important to know what is in the ground in order to dig safely to protect you, the public and the environment.

Canada currently has One Call centres in five provinces. Although not a requirement, many pipeline companies under the NEB jurisdiction are members.

Québec

Info-Excavation:	1-800-663-9228	www.info-ex.com
Saint John Dig Line	1-866-344-5463	www.info-ex.com

Ontario

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

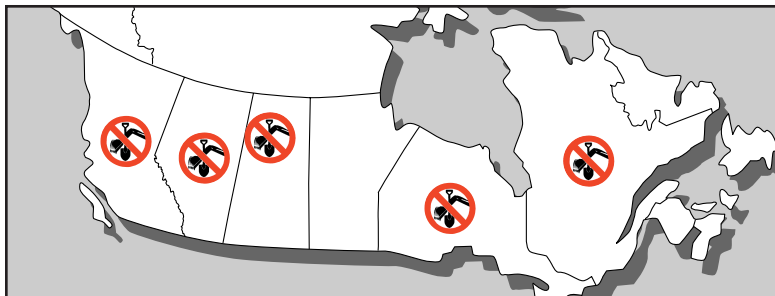
Alberta One Call Corporation:	1-800-242-3447	www.alberta1call.com
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British Columbia

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

One Call:	1-866-828-4888	www.sask1stcall.com
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Being a member of a provincial one call system is an effective method of reducing unauthorized activity and adds depth to a company's public awareness and damage prevention programs.

If you plan a mechanical excavation, you should contact your One Call centre, if applicable. 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 2

Section 112 (formerly section 77) of the *National Energy Board Act*

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 of the pipeline and may, where the Board considers that the facility may impair the safe 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 this section is not necessary.

(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 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).

R.S., 1985, c. N-7, s. 112; 1990, c.7, s.28; 1994, c. 10, s. 26.

"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 or gas, alone or with 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 communications by telephone, telegraph or radio and real and personal property and works connected therewith.

Appendix 3

National Energy Board Pipeline Crossing Regulations, Part I

Registration

SOR/88-528 18 October, 1988

as amended by SOR/93-239 11 May, 1993; SOR/94-704 7 November, 1994;

SOR/97-128 26 February, 1997; and SOR/2000-39 18 January, 2000

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 subsections 112(1) or (2) 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*)
[SOR/2000-39, S.1]

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;
 - (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/CSAC22.3 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.
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;
 - (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

Registration

SOR/88-529 18 October, 1988

as amended by SOR/93-239 11 May, 1993; SOR/95-534 7 November, 1995;

SOR/2000-58 10 February, 2000; and SOR/2000-384 2 4 October, 2000

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 subsections 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*)

"restricted area" [Repealed, SOR/200-384, s.1]

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
 - (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:
 - (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).
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 4

Request to Be Included on Mailing List for Updated Information

National Energy Board
Regulatory Support Office
444 Seventh Avenue S.W.
Calgary, AB T2P 0X8

Facsimile: (403) 292-5503

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

Name: _____

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Organization: _____

Mailing Address: _____

City: _____

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