



CANADIAN ASSOCIATION
OF PETROLEUM PRODUCERS

Canada's Oil and Natural Gas Producers

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(via email: sheri.young@neb-one.gc.ca
damagepreventionregs@neb-one.gc.ca)

Ms. Sheri Young
Secretary of the Board
National Energy Board
517 - 10th Avenue SW
Calgary, AB T2R 0A8

Copy to: Chantal Briand
Regulatory Approaches
National Energy Board

Dear Ms. Young:

Re: Comments on the National Energy Board's Notice of 30-Day Comment Period for National Energy Board Proposed Regulations for Pipeline Damage Prevention in *Canada Gazette Part 1*

The Canadian Association of Petroleum Producers (CAPP) and its members would like to thank the National Energy Board (NEB) for offering us an opportunity to provide feedback on the National Energy Board's Proposed Regulations for Pipeline Damage Prevention (Notice). Following the submission of this feedback, we would welcome the opportunity to engage further with the NEB to determine how pipeline regulations can best support damage prevention.

Context

CAPP represents companies, large and small, that explore for, develop and produce natural gas and crude oil throughout Canada. CAPP's member companies produce about 90 per cent of Canada's natural gas and crude oil. CAPP's associate members provide a wide range of services that support the upstream crude oil and natural gas industry. Together CAPP's members and associate members are an important part of a national industry with revenues from oil and natural gas production of about \$120 billion a year. CAPP's mission, on behalf of the Canadian upstream oil and gas industry, is to advocate for and enable economic competitiveness and safe, environmentally and socially responsible performance.

A number of CAPP members operate onshore NEB-regulated pipelines across Canada. In most instances, these pipelines are short segments of pipeline straddling provincial borders in Western Canada and are contiguous on either side with provincially-regulated pipelines. NEB-regulated pipelines operated by the upstream oil and gas industry, are gathering lines connecting wells to facilities that often operate at a fraction of the pipeline's licensed pressure / stress level. These short segments of gathering lines, straddling provincial boundaries, are largely in remote locations isolated from highly populated areas.

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CAPP members work to reduce damage to underground infrastructure; ensuring public safety, environmental protection, and the integrity of services by promoting effective damage prevention practices. The safety and integrity of buried infrastructure is critical to the oil and gas industry, and our members work diligently to ensure their pipeline systems are safe and reliable.

Our industry is currently working on developing a new industry-specific damage prevention / ground disturbance guideline via our safety association, Enform. This product has recently been released for public review and comment, and we encourage the NEB to participate in the review.

CAPP member companies believe in strong damage prevention regulation and that all companies should be held to the highest standard. We appreciate the opportunity to comment on the Proposed Pipeline Damage Prevention Regulations.

Key Issue

Oil and gas companies work within different provinces and under different regulatory regimes across Canada. CAPP member NEB regulated pipelines are short segment gathering lines that are contiguous with provincially regulated pipelines. Regulatory harmonization is therefore very important, and this is of even greater importance in the current economic climate.

Some aspects of the proposed regulations are unnecessarily different to that of other regulators who oversee our operations, and these inconsistencies create increased operational compliance complexities. CAPP strongly urges the NEB to work towards establishing a framework that is harmonized with other jurisdictions within which we operate.

The ground disturbance regulatory framework mandated by the Alberta Energy Regulator (AER) is well established. There are many examples of where the approach adopted by the AER makes sense such as the definition of a prescribed area, ground disturbance, set back distances, the approach to agricultural and recreational vehicles, as well as authorizations and notifications. CAPP also supports CAN-CSA Z247, which was developed, in part, to offer damage prevention symmetry across regulatory jurisdictions. This issue was raised during the initial consultation on the proposed amendments. We encourage the NEB to continue to adopt a harmonized approach with other Canadian regulators.

Additional Comments

- Authorization – 2 – Prescribed Area. CAPP is broadly supportive of the proposed NEB approach which is 30 meters from the pipeline centerline, however we suggest that harmonization with the statutory language adopted by the AER would be helpful.
- Authorizations – 3(1) – Notification. The proposed regulations require a pipeline company to inform the person making a request of a decision within 10 days. The AER requires licensees to respond to a request in writing within 21 days. The longer timeframe is realistic and accommodates the realities of the type of communications often required to meet the needs of both parties. CAPP recommends that the NEB adopts the timeframe in use by the AER.
- Authorizations – 3(2) – Emergency. CAPP refers the NEB to the exemption in the Alberta ground disturbance rule (60(9)) relating to the two day notification for emergency situations. This rule is clear and well understood by industry. The AER specifies that notification is required at a minimum of 2 days and with a maximum of 10 days prior to work. The proposed NEB regulation is 3 days

before, which adds additional variance. The associated AER rule includes the restoration of essential public services which members suggest could be added to the NEB proposed regulations.

- Authorizations - 6 (b) – Obligations Following a Request to Locate. The AER allows an exemption from marking a location with the approval from the licensee, and permits alternative methods of locating and marking. The NEB requirements are more prescriptive, and CAPP members ask the NEB to mirror the AER requirements.
- Authorizations – 9(1)(b) – Construction of Overhead Lines. This section refers to requirements within the “vicinity” of the construction, and CAPP finds the terminology unclear. Further clarification or a more accurate definition would assist with interpretation. In addition, CAPP recommends that the NEB further explore whether there are any potential implications to this regulation from an electrical safety perspective.
- The NEB uses the phrase “across, on, along or under a pipeline” and the inclusion of the term “along” is problematic. CAPP members agree with “not constructing or placing any kind of pole, pylon, tower, guy, anchor or supporting structure across on or under a pipeline”. Members have poles carrying overhead lines along pipelines because they go down the right-of-way. In addition, members have poles and supportive structures carrying cathodic protection rectifiers and power to run these protective systems “along” the pipeline. CAPP recommends removing the word “along” or provision of additional clarity.
- Authorizations - 10(3) (a) – Ground Disturbance Activity. The term “directional drilling” is less commonly used for this activity. CAPP recommends replacing this with the phrase “crossings using trenchless technologies” which provides a more holistic definition.
- Authorizations – 10 (3)(c) – Measures. The proposed amendments consider hydrovacating using power activated equipment as a ground disturbance. CAPP recommends that “exposure by hand” be defined for clarity and mirror the AER’s definition for “hand excavation” which includes the use of water or jets. Also, consider adoption of the AER rule that no one shall use mechanical equipment within 600mm of the line without direct supervision of a representative of the licensee.
- Authorizations – 13 – Agricultural Activity. Members support the proposed changes exempting agricultural vehicles and recommend that the NEB extend this exemption to align with Alberta’s exemption for recreational and light duty passenger vehicles. Members believe that it is unreasonable of the NEB to ask pipeline owners to develop and manage these types of vehicles crossing pipelines.
 - This creates additional work for pipeline owners for addressing a low risk activity;
 - It potentially impacts recreational snow-mobile users and ATV users who wish to use the pipeline right of way corridors, or cross pipelines;
 - Pipeline company wish to support the communities in which we operate, and this includes enabling people full use of the crown land that many of our pipelines reside in; and
 - Non-compliance reporting to the NEB per Obligations 11 (1) will be substantive and consume unnecessary resources for both the pipeline company and the NEB.

The proposed regulations require companies, when building near, digging on or crossing their own lines, to obtain prior authorization from the NEB. CAPP members are uncertain how to interpret the clause as this requirement is impractical.

- Authorizations - 13 (1) (2) – Operation of Vehicles or Mobile Equipment across a Pipeline. CAPP recommends that the NEB follow the approach adopted by Alberta, and separate the activities of “crossing” from “ground disturbance”. The current wording in 6 (b) is confusing in that locate requests per section 3 appear to be required for crossings which is highly impractical. Section 3, however only refers to ground disturbance activities and not crossings. Furthermore by separating the two, it would be more clear that while crossings done with agricultural activity is allowed, ground disturbance requirements still apply. To that point, it is believed that sod operations remove ground cover so should not be exempt and nursery operations involve excavation activities so should also not be exempt.
- Obligations – 16(e) - Damage Prevention Program. This section refers to the elements of a Damage Prevention Program, and includes “standards” as one of the elements. CAPP recommends that this element is expanded to state “standards, procedures and processes”.
- Obligations – 9 (1) – Detection of Deterioration. This section requires pipeline owners to inspect facilities to make sure that there has not been any deterioration which may affect a pipe. The definition of facility is very broad and includes pipe. It is impractical for pipeline operators to inspect another operators’ pipelines (especially if buried) to look for deterioration.
- Obligations 12 (1) - Records. CAPP members recommend alignment with AER requirements regarding retention of records. The requirement to keep some records the life of the pipeline adds no value.

Recommendations

CAPP continues to support the development of a strong regulatory framework for damage prevention, and we encourage the NEB to engage with other regulators towards a more harmonized regulatory approach.

We wish to learn more about the proposed amendments, and we would welcome the opportunity to collaborate further.

On behalf of CAPP, thank you for the opportunity to present this feedback. Our members have a desire to work together to provide excellence in public and operator safety, and to have clear regulations that allow for the highest of due diligence. We hope our comments are useful and welcome any opportunity to discuss them further.

If you have any questions concerning or comments, please contact me, brad.herald@capp.ca or (403) 267-1113.

Sincerely,



Brad Herald
Vice President, Western Canada