



Trans-Northern //
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Email: damagepreventionregs@neb-one.gc.ca

April 18, 2016

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

Dear Ms. Young,

**Re: National Energy Board's Proposed Regulations for Pipeline Damage Prevention
NEB File Ad-GA-ActsLeg-Fed-NEBA-RRG-DPR 0201**

Trans-Northern Pipelines Inc. (TNPI) respectfully submits our comments to the proposed Pipeline Damage Prevention Regulations (DPR). We would like to recognize the positive approach to the 30 day comment period which included Webex information sessions and meetings with industry on the proposed regulations, TNPI participated in all of the information sessions, which provided clarity on the proposed regulatory changes and outlined the need for stakeholder's participation in the development of Guidance Notes. Our specific comments are included in the attached table.

TNPI operates 850 kilometres of pipeline in eastern Canada from Montreal, Quebec to Nanticoke, Ontario and 320 kilometres in Alberta from Edmonton to Calgary, transporting refined petroleum products. .

TNPI participated in the generation of the industry comments as proposed by CEPA and are supportive of those comments. TNPI has some specific areas which it would like to highlight

1. TNPI supports the addition of the Agricultural exemptions however would like to see consideration to improve the clarity by ensuring that the agricultural activities as defined relate to activities and not to operations i.e. "sod operations". Also that the requirement to notify in writing, to service providers and employees of the agricultural community information specific to safety concerns of the pipeline, are not feasible.
2. The requirement for monitoring of adjacent lands should be clarified to ensure that the area being identified are directly adjacent to the pipeline and not lands that border the lands that the pipeline is situated on.

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TNPI continues to strongly support a mandatory and consistent approach to damage prevention across the country, to ensure the public is protected from the effects of third party damages and that the integrity of our infrastructure is protected. We are looking forward to the new Regulations and participation in the generation of the Guidance Notes that will support them.

Sincerely,

A handwritten signature in blue ink that reads 'John Ferris'. The signature is written in a cursive, flowing style.

John Ferris
President & CEO

Attach

Comments on the proposed PIPELINE DAMAGE PREVENTION REGULATIONS – AUTHORIZATIONS

Section	Pipeline Damage Prevention Regulation - Authorizations	Comments
1	<p>Definitions The following definitions apply in these Regulations.</p> <p>ADD</p>	<p>ADD definition of Pipeline: Prescribed area is defined in section 2 - it removes any reference to a Pipeline RoW as the prescribed area is now a fixed 30 meter zone on either side of the Pipe.</p> <p>The definition of Pipeline should be included in the Regulations to eliminate confusion for the general public and ensure affected parties clearly understand the reference to Pipeline as referenced in Section 2 and 112 of the NEB Act</p> <p>ADD definition of Ground Disturbance: to ensure there is clarity in what ground disturbance is, suggest using the definition as provided in Z247-15. Ground disturbance definition should not be recorded in the negative.</p>
13(2)	<p>Definition of agricultural activity (2) In this section, “agricultural activity” means the work of producing crops and raising livestock and includes till- age, plowing, disking, harrowing, pasturing, mushroom growing, nursery and sod operations, but does not include the construction of new buildings or impervious areas or the placement of footings, foundations, pilings or fence posts.</p>	<p>REMOVE wording: TNPI does not believe that mushroom growing, nursery and sod operations are actual “agricultural activities”. We understand the intent of this section to be that there is an agreement in place with Pipeline companies for all agricultural operations that preclude the need for multiple crossing agreements when using mobile equipment in the field - however it is not intended to include the removal of for example trees from a tree nursery or the removal of sod - these type of operations should require an agreement from the company within the prescribed area. We believe that this should NOT be left for the Guidance Document to address</p>

Comments on the proposed PIPELINE DAMAGE PREVENTION REGULATIONS – OBLIGATIONS OF PIPELINE COMPANIES

Section	Pipeline Damage Prevention Regulation – Obligations of Pipeline Companies	Comments
1	<p>Definitions</p> <p>ADD</p>	<p>Same comment as DPR – Authorizations Section 1</p>
3(1)	<p>Inform person of decision</p> <p>3 (1) If a pipeline company receives a request for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) or section 12 of the National Energy Board Pipeline Damage Prevention Regulations – Authorizations, the pipe- line company must, within 10 working days after receiving the request, inform the person that made the request whether the consent has been granted or refused and, in the case of a refusal, the reasons for the refusal.</p>	<p>CHANGE: Section 3.1 require a pipeline company to inform the person making a request of a decision within 10 days. As 10 days is a concern for receiving all the required information and for completing necessary studies, we believe that the timeframe be extended to 21 days, in part, to gain symmetry with provincial regulators, and that the longer timeframe is realistic and accommodates the realities of the type of communication often required to meet the needs of both parties</p>
7	<p>Agricultural activity</p> <p>7 Even if the condition set out in paragraph 13(1)(a) of the National Energy Board Pipeline Damage Prevention Regulations – Authorizations is met, when the operation of vehicles or mobile equipment across a pipeline at specific locations for the purposes of performing an agricultural activity could impair the pipeline’s safety or security, the pipeline company must identify those locations and notify the following persons in writing of those locations: (a) landowners of the specific locations in question; and</p>	<p>REMOVE Section 7b and add occupants of the land to 7a. 7b references the notification in writing to service providers or employees in the event the pipeline is not safe to travel over at specific locations. It is not feasible to NOTIFY individuals other than the landowner and or their registered occupants. It should be the landowner or occupant to notify and all service providers and employees - this expectation should not be included in the regulations as an for Obligations of Pipeline Companies</p>

Section	Pipeline Damage Prevention Regulation – Obligations of Pipeline Companies	Comments
	(b) persons engaged in agriculture that raise livestock or grow crops, rent or lease the land or work as service providers or employees at the specific locations in question.	
9(1)	<p>Detection of deterioration</p> <p>9 (1) The pipeline company must make any inspections that are necessary to ensure that any deterioration of a facility that might adversely affect a pipe is detected and must notify the facility's owner, in writing, of any deterioration that is detected.</p>	<p>CHANGE: The intent of this section is to notify the facility owner if there is any deterioration detected only during the time that the crossing is open and the pipeline company is in view of the infrastructure/facility. Recommend that the wording be changed to add "notify" in place of "make any inspections that are necessary".</p>
16b	(b) ongoing monitoring of any changes in the use of the land on which a pipeline is located and the land that is adjacent to that land;	<p>CHANGE: The wording adjacent lands is intended to mean the lands adjacent to the "Pipeline" right of way NOT the lands adjacent to the land that the Pipeline is on. Suggest clarify to ensure that the monitoring of adjacent lands is restricted to those directly adjacent to the Pipeline (Right of Way) and/or the prescribed area.</p>