

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NATIONAL ENERGY BOARD
AND THE
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION**

I. PURPOSE

The National Energy Board (NEB) of Canada and the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation (DOT) (together, “the Parties”) enter into this Memorandum of Understanding (MOU) to enhance cooperation and coordination between the Parties for the purpose of improving pipeline safety in both Canada and the United States.

II. BACKGROUND

NEB regulates aspects of the energy industry in Canada including the construction and operation of inter-provincial and international pipelines; pipeline traffic, tolls and tariffs; the construction and operation of international and designated inter-provincial power lines; the export and import of natural gas; the export of oil and electricity; and Frontier oil and gas activities.

PHMSA regulates safety, reliability, and environmental soundness in the design, construction, testing, operation, maintenance, and spill response planning for natural gas and hazardous liquid pipeline facilities used in or affecting U.S. interstate and foreign commerce.

The pipeline infrastructure in Canada and the United States is interconnected and the continued safe operation of this infrastructure is dependent on the adequacy and effectiveness of design, construction, operation, maintenance, and other aspects of pipeline transportation activities in both nations. The Parties recognize that the conduct of their responsibilities has and will in the future require them to examine, regulate, or otherwise oversee interconnecting pipeline facilities or activities. The Parties further recognize that appropriate cooperation in the development and implementation of regulatory programs will provide greater regulatory certainty to pipeline companies operating pipelines which cross the boundary between Canada and the United States.

III. TERMS OF AGREEMENT

- A. The Parties contemplate that cooperation may take the form of staff exchanges, emergency management planning and exercises, joint training initiatives, consultative regulatory development, and sharing of compliance data and reports. To the extent any investigation reports, findings, and company intelligence are shared in furtherance of the purposes of this MOU, each party shall protect any non-public records or portions thereof provided by the other party from unauthorized disclosure in accordance with applicable law and shall obtain the consent of the providing party before disclosing any confidential information. PHMSA further agrees that it will specify when information it provides is being submitted “in confidence” so that that the NEB can refuse disclosure of that material in accordance with Canada’s Access to Information Act.

- B. The Parties contemplate that cooperation may take place on research and development activities. These activities can take the form of coordination meetings to identify mutual areas of research and the possible co-funding of identified research projects.
- C. When either party undertakes a compliance audit on a pipeline that crosses the border between Canada and the United States, the party undertaking the audit shall notify either the NEB Secretary or the PHMSA's Assistant Administrator/Chief Safety Officer as appropriate. Where appropriate, such notification may include an invitation to observe the audit.
- D. When either party commences an enforcement action on a pipeline that crosses the border between Canada and the United States, the party commencing the action shall notify either the NEB Secretary or the PHMSA's Assistant Administrator/Chief Safety Officer as appropriate.
- E. If an Alaskan Natural Gas Pipeline is authorized by law to be designed, constructed and operated, the Parties will coordinate and collaborate in the manner described herein as appropriate.

IV. OTHER PROVISIONS

- A. Nothing in this MOU or any annex is intended to impose any funding obligations on either of the Parties. Nothing in this MOU or any annex is intended to diminish or otherwise affect the authority of either party to carry out its statutory, regulatory or other official functions or to commit either party to providing a particular service they would not otherwise provide in the scope of each party's individual mission and functions.
- B. Nothing in this MOU or any annex shall be construed to conflict with current law, regulation, or directive of the NEB or the DOT. If a term of this MOU or any annex is determined to be inconsistent with such authority, that term shall be invalid to the extent of the inconsistency. The remainder of that term and all other terms shall remain in effect.
- C. Nothing in this MOU or any annex is intended to create any right or benefit, substantive or procedural, enforceable at law by any person or organization against either party, its agencies or officers, state agencies or officers carrying out programs authorized under federal law, or any other person.
- D. This MOU and any annexes hereto may be amended or modified at any time by written agreement of the NEB Secretary and the PHMSA Administrator.
- E. Should disagreement arise on the interpretation of any provision of this MOU or any amendments and/or modifications thereto that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the Parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.


V. PRINCIPAL CONTACTS

The Parties designate the principal contacts identified in Attachment A. Each party's contact may be changed at its discretion upon notice to the other party.

VI. EFFECTIVE PERIOD/TERMINATION


This MOU will be effective as of the date of final signature by both of the Parties and will remain in effect until terminated by either party. Either party may terminate this MOU and any annexes hereto upon written notice to the other party.

APPROVED BY:



Jim Donihee
Chief Operating Officer
National Energy Board

11/1/05
Date



Stacey L. Gerard
Acting Assistant Administrator/Chief Safety Officer
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation

11/1/05
Date

ATTACHMENT A: PRINCIPAL CONTACTS

The following are the principal initial contacts for each party:

National Energy Board

Gregory Lever
Business Leader
Operations Business Unit
444 Seventh Avenue SW
Calgary, Alberta T2P 0X8
glever@neb-one.gc.ca
403-292-2766
403-292-5876 (fax)

Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation

Jeff Wiese
Director of Program Development, OPS
400 Seventh Street SW, Room 2103
Washington, DC 20590
jeff.wiese@dot.gov
202-366-2036
202-366-4566 (fax)