

***DRAFT***

***DAMAGE PREVENTION REGULATIONS***

***National Energy Board Act***

***Draft for information only***

***30 May 2007***

Draft *Damage Prevention Regulations, National Energy Board Act***DRAFT DAMAGE PREVENTION REGULATIONS**

## INTERPRETATION

## Definitions

1. The following definitions apply in these Regulations.

“Act” / « *Loi* »

“Act” means the *National Energy Board Act*.

“one - call centre” / « *centre à numéro unique* »

“one - call centre” means an organization of owners and operators of buried facilities that, within a defined geographical area, coordinates requests for locates and notifies potentially affected members of any proposed ground disturbances for the purposes of protecting their facilities from damage and ensuring public safety.

“pipe” / « *canalisation* »

“pipe” means a line that is used or is to be used for the transmission of oil, gas or any other commodity and that connects a province with any other province or provinces or extends beyond the limits of a province or an offshore area as defined in section 123 of the Act.

“safety zone” / « *zone de sécurité* »

“safety zone” means the area extending 30 m perpendicularly from the centre line of a pipe on either side of the pipe.

“working day” / « *jour ouvrable* »

“working day” means any day that is not a Saturday, a Sunday or any other holiday.

## APPLICATION

2. These Regulations apply to any pipeline company and to any person that is planning or undertaking an activity that has the potential to damage a pipeline.

## SAFETY

## Members of one-call centre

3. If a pipeline company has a pipeline within a geographical area where a one-call centre exists, the pipeline company shall be a member of that centre.

## Damage prevention program

4. Every pipeline company shall develop, implement and maintain a damage prevention program for the purposes of anticipating and preventing damage to its pipeline.

## Standards for locates

5. The pipeline company shall develop, implement and maintain standards for locates of pipelines including

- (a) the required qualifications and competencies for locators;
- (b) the type and quantity of surface markings to be used;
- (c) the procedures for establishing the depth of cover over the pipe; and
- (d) the identification to be provided to locators.

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## Record of locators

**6.** The pipeline company shall create and maintain a record of locators who are qualified to perform locates on behalf of the pipeline company.

## Prohibited ground disturbances

**7. (1)** No person shall undertake a ground disturbance, other than one required to comply with this subsection, within 3 m of the centre line of a buried pipe unless the location of the pipe has been determined by exposing it in a manner that does not have the potential to damage the pipe.

## Exception

**(2)** Subsection (1) does not apply if the pipeline company has assessed the effect of the ground disturbance on the pipe and that ground disturbance will not cause damage to the pipe.

## Representative on site

**8. (1)** The pipeline company shall have a representative on site during

**(a)** the undertaking of a ground disturbance within 3 m of the centre line of its pipe if the pipe is exposed in accordance with subsection 7(1); and

**(b)** the backfilling of any excavations resulting from that ground disturbance.

## Record

**(2)** The pipeline company shall create and maintain a record of all activities described in subsection (1).

## Investigation

**9.** When a pipeline company becomes aware of conditions, activities, actions or omissions that could reasonably be expected to cause damage to its pipeline or that might jeopardize the safety of the public or the company's employees who are engaged in the construction, operation or abandonment of the pipeline, it shall investigate the conditions, activities, actions or omissions and maintain a record of the results of the investigation.

## Report to Board

**10.** The pipeline company shall immediately report to the Board in writing the results of the investigation if it reveals that the conditions, activities, actions or omissions have caused damage to the pipeline or have jeopardized the safety of the public or the company's employees who were engaged in the construction, operation or abandonment of the pipeline.

## Audit program

**11.** The pipeline company shall develop, implement and maintain an audit program for the purpose of verifying compliance with these Regulations.

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## CIRCUMSTANCES IN WHICH OR CONDITIONS UNDER WHICH LEAVE OF THE BOARD IS NOT NECESSARY

## LEAVE UNDER SECTION 108 OF THE ACT

## Crossing a utility

**12.** Leave of the Board under section 108 of the Act is not necessary to carry a pipeline across a utility other than a navigable waterway or a railway if the terms for the pipeline's construction have been set out in a written agreement between the pipeline company and the owner of the utility.

## LEAVE UNDER SUBSECTION 112 (1) OF THE ACT

## Construction across, on, along or under a pipeline

**13.** Leave of the Board under subsection 112 (1) of the Act is not necessary for the construction of a facility across, on, along or under a pipeline if the terms for the construction have been set out in a written agreement between the pipeline company and the person planning the construction.

## Response to a request

**14. (1)** If a request for an agreement referred to in section 13 is made, the pipeline company shall enter or refuse to enter into the agreement within 10 working days after the day on which the request is made.

## Date of receipt of a request

**(2)** The date of the request is made is the day on which the person making the request provides information to the pipeline company that will allow it to adequately evaluate the request.

## Extending the period

**(3)** The period prescribed in subsection (1) may be extended by mutual agreement between the person making the request and the pipeline company.

## Refusal by the pipeline company

**(4)** If the pipeline company refuses to enter into the agreement, it shall immediately provide the Board and the person making the request with the reasons for the refusal in writing and shall inform that person of their right to seek leave from the Board for the construction of a facility under subsection 112(1) of the Act.

## Excavations outside the safety zone

**15.** Leave of the Board under subsection 112 (1) of the Act is not necessary for excavations outside the safety zone if the excavations do not have the potential to damage the pipeline.

## Excavations within the safety zone

**16. (1)** Subject to subsection (2), leave of the Board under subsection 112 (1) of the Act is not necessary for excavations within the safety zone if a locate request has been made in accordance with section 17 and the pipeline company, locator and person planning the excavation have complied with section 18.

## Assessed excavations

**(2)** Leave of the Board under subsection 112 (1) of the Act is not necessary for excavations within the safety zone that have been assessed by the pipeline company and do not have the potential to damage the pipeline.

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## Record of assessed excavations

(3) The pipeline company shall create and maintain a record of the excavations that it has assessed and that do not have the potential to damage the pipeline.

## Locate request

**17. (1)** A person planning an excavation within the safety zone, other than an excavation under subsection 16 (2), shall make a locate request to the pipeline company at least three working days before the day on which the excavation is to start.

## Member of a one - call centre

(2) If the pipeline company is a member of a one - call centre, the person planning an excavation shall make the locate request to the company by sending it to that one-call centre.

## Locates

**18. (1)** Within three working days after the day on which the locate request was received, the pipeline company shall, at no cost to the person requesting the locate,

- (a) determine if the excavation has the potential to damage its pipe or facilities in the safety zone;
- (b) locate the pipe and facilities and place surface markings to identify the horizontal alignment of the pipe and facilities to within plus or minus 600 mm; and
- (c) make a locate report that includes
  - (i) a sketch showing the horizontal alignment of the located pipe and facilities and, if practical, showing their approximate position relative to readily identifiable objects, and
  - (ii) sufficient information to enable the person undertaking the excavation to understand the actions and duties necessary for the prevention of damage to the pipe or facilities.

## Extending the time period

(2) The period prescribed in subsection (1) may be extended by mutual agreement between the person making the locate request and the pipeline company.

## Exception

(3) The pipeline company is not required to undertake the activities prescribed in paragraph (1)(b) with respect to its pipe and facilities located in the safety zone if it completes those activities within 30 calendar days before the day on which the locate request is made unless the surface markings no longer provide a valid indication of the location of the pipe and other facilities.

## Signing of locate report

(4) The locator and the person making the locate request shall sign the locate report.

## LEAVE UNDER SUBSECTION 112 (2) OF THE ACT

## Operation of vehicles or mobile equipment across a pipeline

**19.** Leave under subsection 112 (2) of the Act is not necessary for the operation of a vehicle or mobile equipment across a pipeline if the pipeline company has assessed the operation and the operation does not have the potential to damage the pipeline.