



October 15, 2013

Mr. Suchaet Bhardwaj  
Market Analyst – Regulatory Approaches  
National Energy Board  
444 – 7<sup>th</sup> Avenue SW  
Calgary, AB T2P 0X8

Dear Mr. Bhardwaj,

**Re: Proposed Changes to the NEB Export and Import Regulatory Framework**

The following are the comments of the Canadian Association of Petroleum Producers (CAPP) in response to the Board’s invitation on August 30, 2013, for comments to the proposed changes to the *National Energy Board Part VI (Oil and Gas) Regulations*; the *National Energy Board Export and Import Reporting Regulations* and the *National Energy Board Toll Information Regulations*. CAPP appreciates the opportunity to participate in this ongoing process.

**RE: Proposed Changes to the National Energy Board Part VI (Oil and Gas) Regulations**

1. In Section 2- Interpretation states the following: ... “refined petroleum products” means a) oil recovered by the processing of oil sands, ...f) partially processed oil, whether commingled with crude oil or equivalent hydrocarbons or not.”

*Although these statements do not appear to be changes to the original text, there is a potential for confusion. Industry would typically interpret “oil recovered by the processing of oil sands” as bitumen, which in turn would be considered the same as “crude oil.” Likewise, “partially processed oil, whether commingled with crude oil or equivalent hydrocarbons or not” would be interpreted as a reference to upgraded bitumen or synthetic crude oil or dilBit and thus would normally be treated as “crude oil.” However, under the definition as stated above, bitumen, dilBit and synthetic crude oil should be categorized under “refined petroleum products” for the purpose of reporting to the NEB. If this is the intent, then an explanatory note acknowledging this different interpretation and why would be beneficial.*

2. In Part II – Gas; Division I; Section 12 – Information to be Furnished by Applicants for Licences for Exportation states the following: “An applicant for a licence for the exportation of gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,...
- b) **the source of gas to be exported**
- c) **a description of the implications of the proposed export on the ability of Canadians to meet their gas requirements;**”

*An explanatory meaning of the word “source” would be beneficial. Would appropriate responses include NIT? Please provide some additional guidance or examples regarding section c. Also, please explain what, if there are any, different expectations for Short term Orders versus Long-term Export licences. Note that the “Terms and Conditions of Licences for Exportation” and the “Terms and Conditions of Orders for Exportation” appear to be identical except for the duration.*

3. In Part II – Gas; Division II; Section 20 - Information to be Furnished by Applicants for Licences for Exportation states the following: “An applicant for a licence for the exportation of propane, butanes or ethane shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,...
- b) **source of the propane, butanes or ethane proposed to be exported**
- c) **a description of the implications of the proposed export on the ability of Canadians to meet their propane, butanes or ethane requirements.**”

*An explanatory meaning of the word “source”, referred to in section b) would be beneficial. Please provide some additional guidance or examples for the “description” referenced in c). Also, please explain what, if there are any, different expectations for Short term Orders versus Long-term Export licences. Note that the “Terms and Conditions of Licences for Exportation” and the “Terms and Conditions of Orders for Exportation” appear to be identical except for the duration.*

4. In Part III – Oil;

Section 25 refers specifically to refined petroleum products. Given the new amendments, should the title of Part III be changes to Refined Petroleum Products and Oil. Furthermore, is the intent for section 24, 27, and 29 to refer to both refined petroleum products and oil?

5. In Part III – Oil; Section 25 – Information to be Furnished by Applicants for Licenses for Exportation states the following: “Every applicant for a licence for the exportation of ~~oil, other than a licence for the exportation of light crude oil or heavy crude oil,~~ **refined petroleum products** shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,...
- b) **the source of refined petroleum products, proposed to be exported;**
  - c) **a description of the implications of the proposed export on the ability of Canadians to meet their refined petroleum product requirements;**

*An explanatory meaning of the word “source”, referenced in b) would be beneficial. Please provide some additional guidance for the “description” referenced in c). Also, please explain what, if there are any, different expectations for Short term Orders versus Long-term Export licences. Note that the “Terms and Conditions of Licences for Exportation” and the “Terms and Conditions of Orders for Exportation” appear to be identical except for the duration.*

6. In Part III – Oil; Section 25.1 – Information to be Furnished by Applicants for Licenses for Exportation states the following: “Every applicant for a licence for the exportation of ~~light crude oil or heavy crude oil~~ shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board...
- b) **the source of the oil proposed to be exported**
  - c) **description of the implications of the proposed export on the ability of Canadians to meet their oil requirements;...**

*An explanatory meaning of the word “source”, referenced in b) would be beneficial. Please explain in the case of blended bitumen, is the expectation that the separate components be sourced (ie both the blending agent and the bitumen) or just the main component (ie bitumen)? Please provide some additional guidance for the “description” referenced in c). Also, please explain what, if there are any, different expectations for Short term Orders versus Long-term Export licences.*

RE: Proposed Changes to the National Energy Board Export and Import Reporting Regulations

1. The amended Section 2 Interpretation states: “...**Consignee means the name of the person receiving or taking possession of the exported oil...**”

*Please clarify whether the information sought after is in fact the ultimate destination (refinery) that will be processing the crude oil or simply the company that has ownership of the crude oil at the first point of delivery across the border. If the NEB is in fact seeking the final processor, note that in some cases, this may be unknown but the name of the entity receiving or taking possession of the exported crude as it crosses the border could be reported instead. Relatedly, please confirm whether the consignee refers to the first entity that takes possession of the crude after it crosses the border.*

2. Section 2 Interpretation

A definition of “gas” may need to be added in light of the request by the NEB to provide “Type of Gas” under section 4c of the NEB Import and Export Reporting requirements.

3. The amended Section 4 of the NEB Export and Import Reporting Regulations, for gas, requests that the licence number or order number is reported in each monthly report.

*The amended section 4 of the Proposed Changes to the National Energy Board Part VI (Oil and Gas) Regulations document strikes out the importation of gas, so our understanding is that there will no longer be the need to obtain license or order for gas imports so likewise the NEB would not issue licence and order numbers for imports. Is that correct? For further clarification, is the NEB is still requesting that gas import volumes be reported but simply not tracking them against import orders numbers?*

4. The amended Section 4 of the NEB Export and Import Reporting Regulations, for gas, is as follows: “Subject to sections 5 and 6, **every person exporting or importing** ~~holder of a license or an order for the exportation, importation, exportation for subsequent importation or importation for subsequent exportation of~~ gas shall submit to the Board, on or before the last day of each month, a ~~return~~ **report** for the previous month that contains....”

*Please confirm whether this section differs from the other commodities due to the fact that importers of natural gas will not be required to obtain a license going forward. Is there any significance to changing the term “every person” versus “every holder”? CAPP would suggest the text be revised to the following “every importer of gas or holder of a licence or an order for the exportation of gas...” so as to maintain consistency with the rest of the document.*

5. The amended Section 4 of the NEB Export and Import Reporting Regulations, for gas, includes the following additional information to be reported

“c) **the type of gas exported or imported;**”

*It is unclear what is being requested here.*

6. The amended Section 7 of the NEB Export and Import Reporting Regulations, for oil, states the following:

“Every holder of a licence or an order for the exportation of oil shall submit to the Board, on or before the last day of each month, a **report** ~~return~~ for the previous month that contains for each license and order, the following information:

...

b) in the case of **crude** oil ~~other than refined petroleum products,~~

i) **the name of** the crude stream exported, **including API and sulfur content,**”

*The concern is with the additional requirement to report the API and sulfur content for each crude shipment. This information is currently not readily available to shippers. It is our understanding that pipeline and rail companies currently test the density of every batch of crude oil entering their systems however sulfur content is tested only on random batches. The proposed new requirement would be an initiative that would require co-operation between transportation companies or terminals and producers. As proposed it would require industry to test every crude oil batch for sulfur. CAPP would suggest that, where available in the ordinary course of business, information could be provided in the case of API based on pipeline ticket information and, in the case of sulfur content, where available from the transport company based on their current testing practices, which may be a monthly average or prior year averages.*

RE: Proposed Changes to the National Energy Board Export Toll Information Regulations

1. In Section 3 – Information to be Furnished states “A company that charges tolls shall, at the end of each ~~three month period of operation~~ **year**, furnish to the Board...”

*CAPP would like to note that changing quarterly reporting to annual reporting for toll charging companies will greatly reduce the current level of transparency available to toll paying companies, and will eliminate public data available for forecasting and negotiating purposes. It is important that customers of toll charging companies have access to this information at the right time and frequency in order make an independent assessment of the tolls being charged. Having access to such information on some pipelines has become increasingly important due to the different and more market-based structures that have been put in place.*

*Therefore, CAPP is supportive of maintaining the current reporting requirements under Section 3 of the Toll Information Regulations. Where toll charging companies would like to request another reporting timeframe, such should be based on either a negotiated settlement with toll paying companies or an exemption under section 4. In the alternative, if the Board feels that quarterly reporting is too onerous on toll charging companies, then CAPP requests the Board consider semi-annual reporting requirements as a minimum.*

2. In Subsection 3(c) – Information to be Furnished states “... ~~calculations showing the reasons for the material changes referred to in paragraph (b) in~~ **information pertaining to** capital, traffic, revenues, **and** expenses ~~and rates of return.~~”

*Please clarify whether the removal of information pertaining to rates of return was intended to eliminate duplication of information provided under subsection 3(a)? There is concern that removing the requirement for toll charging companies to provide information behind the calculation of rates of return will remove accountability by toll charging companies to demonstrate the reasonableness of tolls and service offerings.*

CAPP would be pleased to discuss these comments further if required. Any questions regarding this submission can be directed to the undersigned at (403) 267-1157 or [beth.lau@capp.ca](mailto:beth.lau@capp.ca).

Sincerely,



Beth Lau  
Manager, Supply & Markets