

**National Energy Board**  
**Damage Prevention Regulations**  
**(October 2004)**

## INTERPRETATION

1. *The definitions in this section apply in these Regulations.*

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

*“commodity pipeline” is a pipeline that transmits a substance other than oil or gas;*

*“excavation” means to excavate with the use of power-operated equipment or explosives;*

*“facility” includes a pipeline and means*

- (a) any structure that is constructed or placed on the right of way of a pipeline; and*
- (b) any highway, public or private road, railway, irrigation ditch, drain, drainage system, sewer, dike, berm, communications cables or line for the transmission of hydrocarbons, power or any other substance that is or is to be carried across, along, upon or under any pipeline;*

*“locate” means the activities involved in identifying a buried facility, establishing the horizontal alignment of the buried facility and marking that alignment at frequent intervals by the use of temporary flags, spray paint, stakes or other appropriate means;*

*“locate ticket” is a one-call centre’s record of a locate request that is transmitted to potentially affected members of the one-call centre, advising them of a proposed ground disturbance and requesting that they identify and mark the horizontal alignment of their buried facilities at the site of the proposed ground disturbance;*

*“locate report” is the documentation of the locate provided and the communication between the locator and the ground disturber;*

*“locate request” is a communication to a one-call centre from anyone proposing to disturb the ground that advises the one-call centre of the intent to disturb the ground at a particular location and which requests that potentially affected members of the one-call centre be notified of this intent and locate their facilities at the particular location before the ground disturbance takes place;*

*“locator” means a person who has been qualified by the pipeline company to perform a locate;*

*“marking” means the activities involved in visibly identifying the location of buried facilities through means of temporary flags, spray paint or other appropriate means;*

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

*“onshore pipeline” means an onshore pipeline as defined within the Onshore Pipeline Regulations, 1999, (SOR/99-294) as amended from time to time;*

*“pipe” means a pipe which transmits oil, gas or any other commodity and which is part of a pipeline;*

*"pipeline" as defined within the Act means a line that is used or 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 the offshore area as defined in section 123, and includes all branches, extensions, tanks, reservoirs, storage facilities, pumps, racks, compressors, loading facilities, interstation systems of communication by telephone, telegraph or radio and real and personal property and works connected therewith, but does not include a sewer or water pipeline that is used or proposed to be used solely for municipal purposes;*

*“pipeline company” means the company responsible for the operation of the pipeline or its designate;*

*“proponent” means the owner of a facility or his or her delegate*

*“safety zone” means the area extending 30 metres perpendicularly from the centreline of the pipe on either side of the pipe;*

*"utility" means a navigable water, a highway, an irrigation ditch, a publicly owned or operated drainage system, sewer or dike, an underground telegraph or telephone line or a line for the transmission of hydrocarbons, electricity or any other substance;*

*“working day” means Monday, Tuesday, Wednesday, Thursday or Friday excluding statutory holidays.*

## APPLICATION

2. *These regulations apply to:*
  - (a) *onshore pipelines and commodity pipelines;*
  - (b) *persons planning or undertaking any activity having the potential to damage an onshore pipeline or a commodity pipeline;*
  - (c) *persons planning to excavate within the safety zone; and*
  - (d) *persons planning or undertaking to construct a facility across, on, along, or under a pipeline.*

## SAFETY ZONE

- 3.(1) *The pipeline company may limit the width of the safety zone where the safety zone may impinge on adjacent property.*
- 3.(2) *The pipeline company shall document and keep records describing where and why the width of the safety zone has been limited for the life of the pipeline.*

## GENERAL

4. *Pipeline companies shall develop, implement and maintain a damage prevention program.*
5. *Pipeline companies shall be members of a one-call centre where they own or operate facilities within areas where such organizations exist.*

## LEAVE

6. *Leave of the Board pursuant to subsection 112(1) of the Act is not required for excavations outside of the safety zone.*
- 7(1) *Subject to subsection 7.2, leave of the Board under subsection 112(1) of the Act is not required for excavations within the safety zone provided a locate request has been made as set out in section 12 and the pipeline company has responded to the locate request as set out in section 14.*
- 7(2) *Where a pipeline is not within a pipeline right of way, leave of the Board under subsection 112(1) of the Act is required for excavations within the safety zone unless the pipeline company has provided written approval for the excavation.*

- 8.0 *Leave of the Board is not required for ground disturbances associated with construction of a facility across, on, along or under the right-of-way within the safety zone provided written approval has been obtained from the pipeline company.*

## *CROSSINGS*

### *Pipelines Crossing Utilities*

- 9.(1) *Leave of the Board is not required for the construction of a pipeline carried across, on, along or under a utility where the terms and conditions for the construction have been set out in a written agreement between the pipeline company and the owner of the utility.*
- 9.(2) *Where the Board is the appropriate authority, the pipeline company may apply to the Board for leave under section 108 of the Act when an agreement as described within subsection (1) can not be obtained.*

### *Facilities Crossing Pipelines*

- 10.(1) *Leave of the Board is not required to construct a facility across, on, along or under a pipeline where an agreement establishing the terms and conditions for the construction have been set out in a written agreement between the pipeline company and the proponent of the facility.*
- 10.(2) *Pipeline companies shall approve or deny requests by proponents seeking permission to construct a facility across, on, along or under a pipeline within ten (10) working days of the date of receipt of the request.*
- 10.(3) *The date of receipt of a request shall be the date upon which the proponent has provided all necessary information for the consideration of the request to the pipeline company.*
- 10.(4) *The ten (10) working day period set out in subsection 10(2) can be extended by mutual agreement of the proponent and the pipeline company.*
- 10.(5) *When permission to construct a facility across, on, along or under a pipeline is denied by the pipeline company, the pipeline company will immediately provide the Board and the proponent with the reasons for the denial in writing and shall inform the proponent of their right to seek leave from the Board.*

### *Vehicles and Mobile Equipment Crossing Pipelines*

- 11.(1) *Permission of the pipeline company must be obtained prior to operating vehicles or mobile equipment above the pipeline outside of the traveled portion of a highway or public road.*
- 11.(2) *The form and content of the permission required by subsection 11(1) shall be determined by the pipeline company.*

- 11.(3) *Permission may be granted for single occurrences or may provide approval for repetitive events.*

#### *NOTIFICATION*

- 12.(1) *Persons planning an excavation within the safety zone must make a locate request a minimum of three (3) working days prior to commencing the excavation.*
- 12.(2) *The pipeline company may exempt limited and specific excavations from the locate request requirement of subsection 1.*
- 12.(3) *Exemptions provided by the pipeline company under subsection 2 may be provided and communicated through documented materials forming part of the damage prevention program required under section 4.*

#### *LOCATES*

13. *Locates shall be performed by the pipeline company at no cost to the person requesting the locate.*
- 14.(1) *Within three (3) working days after receipt of a locate request as set out in section 12, the pipeline company shall*
- (a) determine if the excavation has the potential to damage the pipeline;*
  - (b) locate the pipeline company's pipe and other facilities if required; and*
  - (c) inform the person responsible for the activities of all information pertinent to the prevention of damage to the pipe and other facilities.*
- 14.(2) *The period of time between the notification and activities set out in subsection (1) may be any period of time provided the persons making the notification and the pipeline company agree.*
15. *The pipeline company shall develop, implement and maintain standards for locates 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;*
  - (d) the form of identification to be provided to locators; and*
  - (e) the form and content of the locate report.*

16. *Locate reports shall*
- (a) *include a sketch showing the horizontal alignment of all facilities located by the locator and where practical shall show their approximate position relative to readily identifiable objects;*
  - (b) *be signed and dated by the locator and the person or a representative of the person undertaking the activity having the potential to damage the pipeline; and*
  - (c) *include sufficient information to ensure the person or the representative of the person undertaking the activity understands the actions and duties necessary for the prevention of damage to the pipeline.*
17. *The pipeline company shall create and maintain records of locators who are qualified to perform locates on behalf of the pipeline company.*
18. *Unless otherwise specified by the pipeline company, the locate ticket shall be valid for a period of thirty (30) calendar days after the date upon which the locate ticket was issued unless the surface markings are disturbed to the extent that they no longer provide a valid indication of the location of the pipe and other facilities.*
19. *Markings placed by the locator shall accurately identify the horizontal alignment of the pipe or other facilities within plus or minus six hundred ( $\pm 600$  millimetres)*

#### *CONTROL OF ACTIVITIES*

20. *The pipeline company or its designated representative shall immediately halt any activities deemed to be contrary to these Regulations.*
21. *The pipeline company or its designated representative shall*
- (a) *be present during ground disturbances taking place within three (3) metres of the centerline of a buried pipe;*
  - (b) *be present during backfilling of excavations where its facilities have been exposed; and*
  - (c) *make a record of all activities as described in paragraphs (a) and (b).*
- 22.(1) *No ground disturbance may take place within three (3) metres of the centerline of a buried pipe unless the location of the pipe has been positively determined by exposure or equivalent means.*
- 22.(2) *Where the pipeline company determines that a ground disturbance will not result in damage to the pipe and where the depth of the pipe is such that exposure is impractical, the pipeline company may waive the requirements of subsection 22(1).*

#### *REPORTING*

23. *Persons undertaking activities or events having the potential to damage a pipeline shall immediately notify the pipeline company of any conditions, activities or actions which could reasonably be expected to have caused damage to the pipeline or which may jeopardize the safety of persons.*
24. *The pipeline company shall investigate all activities or events reported under section 23 and shall keep records of these investigations.*
25. *The pipeline company shall immediately report to the Board in writing*
  - (a) *any violation of these Regulations that poses a threat to the pipeline; and*
  - (b) *the results of investigations of activities or events reported under section 23 where the investigation reveals the events or activities may have resulted in damage to the pipeline.*

#### *AUDIT*

26. *The pipeline company shall develop, implement and maintain an audit program for the purposes of verifying compliance with these Regulations.*
27. *The audit program described in section 26 shall include*
  - (a) *requirements for the evaluation of the adequacy and effectiveness of the damage prevention program required by section 4;*
  - (b) *mechanisms and procedures for the refinement of pipeline company programs and procedures; and*
  - (c) *requirements for the creation, storage and handling of audit materials, records and reports.*

#### *RECORDS*

28. *The pipeline company shall develop, implement and maintain a program for the management of records necessary to demonstrate compliance with these Regulations.*

#### *PROPOSED REGULATION*

29. *The National Energy Board Pipeline Crossing Regulations, Part I (SOR/88-528) and the National Energy Board Pipeline Crossing Regulations, Part II (SOR/88-529) are repealed.*
30. *These Regulations come into force on the day they are registered.*