

April 18, 2016

Ms Sheri Young
Secretary of the Board
National Energy Board
517 Tenth Avenue SW
Calgary, Alberta T2R 08A

By Email: damagepreventionregs@neb-one.gc.ca

Re: 30-Day Comment Period for Proposed Regulations for Pipeline Damage Prevention in *Canada Gazette*, Part I - 19 March to 18 April 2016.

The Canadian Common Ground Alliance (CCGA) respectfully submits the attached response to the National Energy Board (“NEB” or “the Board”) following its March 19, 2016 general request for comments on the proposed regulations for pipeline damage prevention (DPR). Detailed comments are included in the attached matrix and general comments are on the following pages. Matrix comments captured in red are critical, whereas comments in yellow are important; and, comments in green are considered more general.

The CCGA represents the collective voice of its twenty-four member Board of Directors dedicated to working toward damage prevention solutions that will benefit all Canadians. Through our Board, the CCGA reaches roughly 1.5 million Canadians who are stakeholders of the Damage Prevention Process. Through shared responsibility among these stakeholders, the CCGA works to reduce damages to underground infrastructure ensuring public safety, environmental protection, and the integrity of services by promoting effective damage prevention practices.

The CCGA wishes to thank the National Energy Board for the opportunity to provide comment and looks forward to a continued and collaborative dialogue that will assist the Board in reaching our mutual goal of effective damage prevention governance.

Sincerely,



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1. Incorporating CSA Z247 by Reference

Regulatory symmetry is a significant challenge facing effective damage prevention governance in Canada. With the promulgation of the DPR, the NEB has a unique advantage to overcome this challenge by referencing CSA Z247, *Damage prevention for the protection of underground infrastructure*.

Furthermore, and as the NEB is aware, the Standing Senate Committee on Energy, the Environment and Natural Resources produced a report entitled [*Digging Safely – One-call Notification Systems and the Prevention of Damage to Canada’s Buried Infrastructure*](#). The report included four recommendations, the first of which states:

“That the federal government reference the CSA Z247 standard for protection and prevention of damage to buried infrastructure in relevant federal legislation and encourage provinces and territories to reference the standard in legislation.”

As an active and engaged participant throughout the 2.5 year development of CSA Z247, the CCGA continues to urge the NEB to incorporate CSA Z247 in the DPR by reference.

2. Written Consent for Ground Disturbances within the Prescribed Area

The Pipeline Safety Act amends Section 112(1) of the NEB Act as follows:

112. (1) *It is prohibited for any person to construct a facility across, on, along or under a pipeline or engage in an activity that causes a ground disturbance within the prescribed area unless the construction or activity is authorized by the orders or regulations made under subsection (5) and done in accordance with them.*

The NEB defines the *prescribed area* as follows:

“...a strip of land measured 30 metres perpendicularly on each side from the centreline of a pipe.”

The CCGA is of the view that section 10(1)(a) clearly authorizes a pipeline company to deny a ground disturbance in the prescribed area beyond the limits of the right of way. If this is accurate, the CCGA finds it critically important for the DPR or guidance notes to accurately describe why such a provision is included and how it is intended to be applied.

As widely promoted by the CCGA, *damage prevention is a shared responsibility*, and in that light, the CCGA offers that in good practice, a responsible person should make a locate request to a provincial notification centre, where those centres exist, for ground disturbances *anywhere* in Canada to determine the presence of underground infrastructure and react accordingly and responsibly; ie: managing the ground disturbance project to ensure public safety and the integrity of existing

underground infrastructure. Where notification centres do not exist, a responsible person should determine the presence of underground infrastructure through available means.

In the case of NEB regulated underground infrastructure, this best practice will be mandated in the prescribed area, which includes the right of way and extends to an area 30 metres from the centerline of pipe beyond the right of way. Where a notification centre does not exist, the person conducting a ground disturbance in the prescribed area must provide notification to the pipeline company(s) directly. Upon receipt of a ground disturbance notification, the pipeline company will assess the proposed ground disturbance in relation to its pipeline and determine whether or not:

- a) the work can proceed as requested; or
- b) the proposed ground disturbance requires modification to ensure it is carried out safely and there is no damage to the pipe – a process requiring meaningful consultation.

In the CCGA's view, a ground disturbance in the prescribed area beyond the right of way could only be denied if meaningful and reasonable consultation with the person proposing the ground disturbance failed to provide the pipeline company with the assurance that public safety, and the integrity of its pipeline and right of way, will be preserved. In those situations, the pipeline company must take measures to protect its asset and ensure public safety; including the option of informing the person proposing the ground disturbance to submit its request directly to the National Energy Board for consideration.

3. Projected Limits

"Projected limits" was introduced in section 5(e) of the PCRs, Part I and represents a critical regulatory tool that allows pipeline companies to maintain system integrity and public safety where no pipeline right of way exists (e.g., within road easements).

Please provide whether or not the provisions of section 10(1)(a) will apply to situations previously governed by section 5(e) of the PCRs, Part I.

4. Universal Colour Code

Within the DPR, the NEB has removed any reference to a recognized / universal colour code for marking buried plant; instead referencing the company's locating standards established within their respective Damage Prevention programs.

The CCGA believes this introduces the possibility for companies to establish contrary marking colours for the same types of buried facilities, which would cause confusion for the public and potentially put them at risk when excavating. It is also contrary to the intent and content of CSA Z247 as well as the CCGA Best Practices, Vol. 1.0.

The CCGA recommends inclusion of a requirement to follow industry-recognized / universal colour code within regulatory text.

5. Regulatory Clarity

In general, the most recent draft of the DPR is the best version of the regulation produced by the NEB. For the most part, the DPRs' format remains parallel to the regulations it is replacing. Some language in the proposed DPR, however, lacks the certainty of definition provided by the PCRs and the CCGA believes this could be problematic going forward.

The CCGA provides suggestions in the attached matrix where it believes defining language would be beneficial.

6. Underground Infrastructure Safety Enhancement Act (previously Bill S-233)

Further to the published findings and recommendations of the Standing Senate Committee's report, the CCGA has been working with Senator Grant Mitchell and Parliamentary Counsel since April 2015 to develop damage prevention legislation governing federally-regulated underground infrastructure. The proposed legislation reached second reading in June 2015 before expiring in accordance with the commencement of the 2015 federal election process. At that time, the legislation was made public and comments / feedback were requested.

The legislation remains under development. To date, however, the NEB has not provided written feedback to the CCGA on both drafts of the proposed legislation (most recent March 2016). In this context, the CCGA is curious whether or not the Underground Infrastructure Safety Enhancement Act has been contemplated by the Board in the development of the DPRs or, whether or not the language in the Underground Infrastructure Safety Enhancement Act should be amended to better reflect NEB damage prevention governance.

Closing Comment:

The CCGA continues to recognize the long history behind the development of the DPR and congratulates the NEB on its goal to secure language that will protect the integrity of Canada's transmission pipeline network while balancing with effective and existing legislation and best practices.

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
<i>Act</i> means the <i>National Energy Board Act</i> ; (Loi)	<i>Act</i> means the <i>National Energy Board Act</i> . (Loi)		
emergency means an unexpected situation that could endanger life or cause substantial property or environmental damage and that requires immediate action; (<i>urgence</i>)	Emergency is not included in the definitions but appears in regulatory text.	Emergency — incident or condition that has caused or poses an immediate risk to health, life, property, or the environment.	The definition appearing in the PCR should be included to ensure there is no discrepancy as to what might constitute an emergency. CCGA recommends referencing CSA Z247 for the definition of “Emergency”
<i>excavation</i> [Revoked, SOR/93-239, s. 2]			
excavator means the person who performs an excavation and includes the corporation or other legal entity and every agent, affiliate and subcontractor of the corporation or other legal entity that has direct control over the person performing the excavation; (<i>exécutant de travaux d’excavation</i>)		Excavator —any person, partnership, corporation, public agency, agent, or other entity that is responsible for carrying out a ground disturbance.	No comment.
facility means (a) any structure that is constructed or placed on the right-of-way of a pipeline, and (b) any highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telegraph, telephone line 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; (<i>installation</i>)	facility means any structure, highway, private road, railway, irrigation ditch, drain, drainage system, sewer, dike, telephone line, telegraph line, telecommunication line, line for the transmission of electricity or pipe for the transmission of hydrocarbons or any other substance. (<i>installation</i>)		The elimination of all appurtenances is a concern to the CCGA as a facility, pipeline or pipe no longer includes such supporting infrastructure as cathodic protection, valves, metering stations, etc.
facility owner means a person, firm, public agency, corporation, or any combination thereof, that owns a facility or that undertakes or has control over one or more of the activities related to construction, installation, operation, maintenance or removal of a facility; (<i>propriétaire d’installation</i>)			“The owner of a facility” is used within the regulatory text of the DPR. Given the PCRs’ clear and exhaustive definition of “facility owner”, the CCGA finds the elimination of defined language potentially problematic.
leave means the leave of the Board referred to in subsection 112(1) of the Act; (<i>autorisation</i>)			Leave is not defined within the DPR. The CCGA believes it would benefit the DPR if “leave” was defined and clarified that it now encompasses leave of the company and of the Board.
offshore area means the submarine areas adjacent to the coast of Canada; (<i>endroit au large des côtes</i>)	offshore area means the submarine areas adjacent to the coast of Canada. (<i>zone extracôtière</i>)		
overhead line means an above-ground telephone, telegraph, telecommunication or electric power line or any combination thereof; (<i>ligne aérienne</i>)	overhead line means a facility that is an above-ground telephone, telegraph, telecommunication or electric power line or any combination of those lines. (<i>ligne aérienne</i>)		
permission means the consent given by a pipeline company to a facility owner or excavator to construct or install a facility or to excavate; (<i>permission</i>)	The DPR addresses permission via “consent”		The CCGA suggests including a definition for “consent” in the DPR.
pipe means the pipe and all related appurtenances that belong to a pipeline company and that are used in the transmission of hydrocarbons through a pipeline; (<i>conduite</i>)	pipe means a pipe that is part of a pipeline and that is used or is to be used for the transmission of hydrocarbons or any other commodity. (<i>conduite</i>)		The elimination of all appurtenances is a concern to the CCGA as a facility, pipeline or pipe no longer includes such supporting infrastructure as cathodic protection, valves, metering stations, etc.
restricted area means an area designated under section 9. (<i>zone interdite</i>)			Prohibition area needs to be defined.
	working day means any day that is not a Saturday or a Sunday or other holiday. (<i>jour ouvrable</i>)	Business days —Monday to Friday, excluding legal holidays in the jurisdiction.	
Application			

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

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	<p>2 For the purposes of subsection 112(1) of the Act, the prescribed area means a strip of land measured 30 m perpendicularly on each side from the centreline of a pipe.</p>		<p>The consistency with provincial legislation provided by “the prescribed area” is valuable. The simplicity of its definition, as opposed to previous and more complicated drafts of the DPR is equally recognized.</p>
<p>3 These Regulations do not apply to an excavation caused by (a) a pipeline company or its agents; or (b) activities, other than the construction or installation of a facility, that disturb less than three tenths of a metre of ground below the initial grade and do not reduce the total cover over the pipe.</p>	<p>3 (2) Any pipeline company that intends to construct a facility across, on, along or under its pipeline or engage in an activity that would cause a ground disturbance within a prescribed area must make a locate request to a one-call centre at least three working days before the day on which the construction or activity is to start if the intended construction or activity is within an area where a one-call centre exists.</p> <p>6 For the purposes of subsection 112(1) and paragraph 112(2)(a) of the Act and despite sections 7 and 9 to 13 of these Regulations, the construction of a facility — in an area other than an offshore area — across, on, along or under a pipeline, an activity — in an area other than an offshore area — that would cause a ground disturbance within a prescribed area and the operation of a vehicle or mobile equipment across a pipeline is authorized if the pipeline company that intends to carry out the construction, activity or operation</p> <p>(a) is authorized to carry out the construction, activity or operation under the Act;</p> <p>(b) makes a locate request in accordance with section 3; and</p> <p>if another pipeline company receives the locate request, the pipeline company that made the locate request obtains from the other pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies.</p>		<p>The CCGA strongly suggests changing the words “One-Call” centre to <i>Notification Centre</i> throughout the DPR.</p> <p>As the NEB is aware, the “Call Before You Dig” call-to-action is being out-paced by the ClickBeforeYouDig call-to-action and with good reason. Web-based locate requests allow a notification centre and their members to achieve a higher level of safety and reduce damages due to the ability to include attachments, such as sketches, photographs, maps, etc., identifying the location of a proposed ground disturbance. These attachments are reducing the need for members to locate (as much as 35%) while enhancing the integrity of the locate request process. Web-based locates can be placed 24/7 and significantly reduce the strain on Notification Centre staff; and, Canada’s only one-window portal to place a locate request is through www.ClickBeforeYouDig.com</p> <p>As a result, the CCGA has shifted all correspondence to “Click” Before You Dig; eliminating reference to “Call”. The Canadian One Call Centres Committee (they are working to change their name – how’s that for ironic?), which holds a seat on the CCGA Board of Directors, supports this path forward.</p>
	<p>4 Any person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within a prescribed area or operate a vehicle or mobile equipment across a pipeline must, before the construction, activity or operation is to start, inform all persons working on their behalf, including employees, contractors and subcontractors, of their obligations under these Regulations.</p>		<p>No comment.</p>
<p>Conditions and Circumstances Under Which Leave of the Board Is Not Required</p>			
	<p>3 (1) Subject to subsection (2), any person that intends to construct a facility across, on, along or under a pipeline or engage in an activity that would cause a ground disturbance within a prescribed area must make a locate request in the following manner at least three working days before the day on which the construction or activity is to start:</p> <p>(a) to a one-call centre if the intended construction or activity is within an area where a one-call centre exists; or</p>	<p>8.1.1 The planner should review all available and applicable documents, records, drawings, etc., to ensure all underground infrastructure has been identified within and in the vicinity of the proposed work area.</p> <p>8.1.2 Where a one-call service exists: a) The planner shall contact the one-call service to request the identity of the registered underground infrastructure owners within the vicinity of the ground disturbance.</p>	<p>Section 3(3) uses a lot of language to explain an emergency situation. The CCGA questions why the NEB chose to eliminate and revise the clear language that adequately explained emergency situations in the PCR. The ambiguity introduced by the lack of clarity of this new language has the potential to be misinterpreted which could unnecessarily prolong response and expand the scope of the emergency.</p>

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
	<p>(b) to the pipeline company directly if the intended construction or activity is not within an area where a one-call centre exists</p> <p>3 (3) In the case of an unexpected situation that could endanger life or cause substantial property or environmental damage that requires immediate action, the three-day period set out in subsections (1) and (2) does not apply and the locate request must be made as soon as possible before the construction or activity starts.</p> <p>3 (4) A one-call centre is an organization that, for the purposes of protecting the underground infrastructures of its members from damage and ensuring public safety,</p> <p>(a) receives locate requests from within a defined geographical area; and</p> <p>(b) notifies its members that may be affected by any proposed construction or any proposed activity that would cause a ground disturbance and that are the subject of a locate request of that construction or activity.</p>	<p>b) The one-call service shall make the information available. Note: <i>This is an information request and is not a locate request.</i></p> <p>8.1.3 For underground infrastructure not registered with a one-call service, the planner shall use information from all applicable sources to identify underground infrastructure in the vicinity of the proposed ground disturbance. Note: <i>Applicable sources include, but are not limited to, the following:</i></p> <p>a) <i>land registry office;</i> b) <i>water utilities;</i> c) <i>electric utilities;</i> d) <i>pipeline companies;</i> e) <i>natural gas utilities;</i> f) <i>telecommunication companies;</i> g) <i>universities;</i> h) <i>libraries;</i> i) <i>municipalities; and</i> j) <i>utility location coordination councils.</i></p>	<p>The CCGA strongly suggests the DPR defines “emergency” and maintains language governing emergencies that appears in PCRs Part I.</p> <p>Emergency Definition: <i>emergency means an unexpected situation that could endanger life or cause substantial property or environmental damage and that requires immediate action; (urgence)</i></p>
<p>4 Leave of the Board is not required for any construction or installation of a facility, other than the installation of an overhead line referred to in section 5, if</p> <p>(a) the construction or installation of the facility takes place in an area other than an offshore area;</p> <p>(b) the facility owner obtains written permission from the pipeline company prior to the construction or installation of the facility and accepts any conditions set out in the permission;</p> <p>(c) the facility owner ensures that the work is carried out in accordance with the technical details that are set out in its request for permission that have been accepted by the pipeline company;</p> <p>(d) the facility owner ensures that the work is completed within two years after the date the permission referred to in paragraph (b) is granted or within a period otherwise agreed on by the pipeline company and the facility owner;</p> <p>(e) where permission is suspended by the pipeline company or the Board in accordance with subsection 14(1) of the <u>National Energy Board Pipeline Crossing Regulations, Part II</u>, the facility owner ceases work;</p> <p>(f) unless otherwise agreed on by the pipeline company and the facility owner and, except in cases of emergency, three working days’ notice is given by the facility owner to the pipeline company prior to commencement of construction or installation of the facility;</p> <p>(g) in the case of an emergency, as much prior notice as is practicable is given by the facility owner to the pipeline company prior to commencement of construction or installation of the facility;</p> <p>(h) the facility owner undertakes and complies with all practices stipulated by the pipeline company to the facility owner to lessen any detrimental effect that the facility may have on a pipe;</p>	<p>7 (1) For the purposes of subsection 112(1) of the Act, the construction of a facility — in an area other than an offshore area — across, on, along or under a pipeline, other than the construction of an overhead line referred to in section 9, is authorized if the person that intends to construct the facility</p> <p>(a) obtains the pipeline company’s written consent;</p> <p>(b) makes a locate request in accordance with section 3; and</p> <p>(c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies.</p> <p>7 (2) If the consent is suspended by the Board, or by the pipeline company in accordance with subsection 10(1) of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies, the authorization is suspended and the construction must cease for the duration of the suspension of the consent.</p> <p>7 (3) Any person that is undertaking the construction of a facility must comply with the following measures:</p> <p>(a) ensure that the construction is carried out in accordance with the technical details that are set out in the person’s request for consent and that have been accepted by the pipeline company,</p>	<p>8.2 Seeking permission and permits The planner shall obtain or arrange for any applicable permission and permits required for the proposed ground disturbance.</p>	<p>The CCGA has no concerns with this section; providing emergency is defined as noted above and the language of the DPR modified accordingly.</p>

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
<p>(i) prior to the construction or installation of the facility, the facility owner <i>(i) confirms with the pipeline company that all the pipeline company's pipes in the vicinity have been staked, and</i> <i>(ii) ensures that the pipeline company has explained, to the satisfaction of the facility owner, the significance of the stakes that identify the location of the pipeline company's pipes;</i> (j) the facility owner complies with the instructions of an authorized field representative of the pipeline company regarding the procedures to be followed while working in the vicinity of a pipe; (k) where interference with or alteration of a pipe is necessary, the facility owner obtains prior written consent of the pipeline company; (l) where the facility owner receives the consent referred to in paragraph (k), the work is carried out under the supervision of the pipeline company; (m) the facility owner immediately notifies the pipeline company of any contact with a pipeline company's pipe or its coating; (n) the facility owner maintains the facility in a state of good repair compatible with the safety of the pipeline and immediately corrects any deterioration in the facility on being informed in writing by the pipeline company pursuant to subsection 15(1) of the <i>National Energy Board Pipeline Crossing Regulations, Part II</i>, except where, unless otherwise ordered by the Board, (i) the facility owner provides the pipeline company with a written undertaking executed by a third party whereby the third party agrees to assume the responsibility for maintaining the facility, or (ii) the facility has been removed or abandoned and the site restored to the satisfaction of the pipeline company; (o) the facility owner notifies the pipeline company, in writing, of the proposed abandonment or removal of any facility affecting a pipe or right-of-way of the pipeline; and (p) the facility owner removes or alters any facility that could impede the safe and efficient operation of the pipeline, or that the Board considers should be removed or altered for the protection of property and the environment and the safety of the public and the pipeline company's employees.</p>	<p>as well as with the conditions set out in the pipeline company's consent; (b) ensure that the construction is completed within two years after the day on which the consent was obtained, unless the pipeline company and the person agree on another time period that is set out in the consent; (c) comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed while carrying out the construction in the vicinity of a pipe and that relate to the pipeline's safety and security; (d) if interference with or alteration of a pipe becomes necessary, obtain the pipeline company's written consent to interfere with or alter the pipe; (e) carry out any construction that involves the interference with or alteration of a pipe under the pipeline company's supervision; and (f) immediately notify the pipeline company of any contact with a pipe or its coating during the construction.</p> <p>8 The owner of a facility that is constructed — in an area other than an offshore area — across, on, along or under a pipeline must</p> <p>(a) maintain the facility in a state of good repair compatible with the pipeline's safety and security; (b) immediately correct any deterioration in the facility on being so notified in writing by the pipeline company under subsection 9(1) of the <i>National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies</i>; (c) notify the pipeline company, in writing, of any proposed abandonment or removal of the facility; and (d) remove or alter the facility or part of the facility that could adversely affect the pipeline's safe and efficient operation or that could jeopardize property and the environment and the safety and security of the public and of the pipeline company's employees.</p>		
<p>5 Leave of the Board is not required for the installation of an overhead line across a pipeline if</p>	<p>9 (1) For the purposes of subsection 112(1) of the Act, the construction of an overhead line across a pipeline — in an area other than an offshore</p>		<p>See comment and question in covering letter.</p>

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
<p>(a) unless otherwise agreed on by the pipeline company and the facility owner and, except in cases of emergency, three working days' notice is given by the facility owner to the pipeline company prior to commencement of installation;</p> <p>(b) in the case of an emergency, as much prior notice as is practicable is given by the facility owner to the pipeline company prior to commencement of installation;</p> <p>(c) the overhead line is installed in accordance with the minimum ground-to-wire clearance established by the Canadian Standards Association Standard CAN/CSA-C22.3 No. 1-M87, <i>Overhead Systems</i>, the English version of which is dated April 1987 and the French version of which is dated December 1989;</p> <p>(d) where the pipeline is patrolled by aircraft, aerial warning devices are installed and properly maintained by the facility owner at the request of the pipeline company; and</p> <p>(e) no poles, pylons, towers, guys, anchors or supporting structures of any kind are constructed or placed on the right-of-way of the pipeline or within its projected limits.</p>	<p>area — is authorized if the person that intends to construct the overhead line</p> <p>(a) makes a locate request in accordance with section 3;</p> <p>(b) confirms with the pipeline company that all of the pipeline company's pipes in the vicinity of the construction have been marked; and</p> <p>(c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies.</p> <p>9 (2) Any person that is undertaking the construction of an overhead line across a pipeline must comply with the following measures:</p> <p>(a) construct the overhead line in accordance with any applicable provincial and federal law;</p> <p>(b) if the pipeline is patrolled by aircraft and if the overhead line poses a risk to the aircraft, install and maintain aerial warning devices; and</p> <p>(c) not construct or place any kind of pole, pylon, tower, guy, anchor or supporting structure across, on, along or under the pipeline.</p>		
<p>6 Leave of the Board is not required for an excavation, other than an excavation referred to in section 7, if</p> <p>(a) the excavation takes place in an area other than an offshore area;</p> <p>(b) the excavator obtains written permission from the pipeline company prior to the excavation and accepts any conditions set out in the permission;</p> <p>(c) the excavator ensures that the work is carried out in accordance with the technical details that are set out in its request for permission and that have been accepted by the pipeline company;</p> <p>(d) the excavator ensures that the work is completed within two years after the date the permission referred to in paragraph (b) is granted or within a period otherwise agreed on by the pipeline company and the excavator;</p> <p>(e) where permission is suspended by the pipeline company in accordance with subsection 14(1) of the <i>National Energy Board Pipeline Crossing Regulations, Part II</i>, the excavator ceases work;</p> <p>(f) unless otherwise agreed on by the pipeline company and the excavator and, except in cases of emergency, three working days' notice is given by the excavator to the pipeline company prior to commencement of the excavation;</p> <p>(g) in the case of an emergency, as much prior notice as is practicable is given by the excavator to the pipeline company prior to commencement of the excavation;</p> <p>(h) prior to commencement of the excavation, the excavator</p> <p style="padding-left: 40px;">(i) confirms with the pipeline company that all the pipeline company's pipes in the vicinity have been staked, and</p>	<p>10 (1) For the purposes of subsection 112(1) of the Act, any activity — in an area other than an offshore area — that would cause a ground disturbance within the prescribed area, other than an activity referred to in section 11, is authorized if the person that intends to engage in the activity</p> <p>(a) obtains the pipeline company's written consent;</p> <p>(b) makes a locate request in accordance with section 3; and</p> <p>(c) obtains from the pipeline company the information that is referred to in paragraphs 6(1)(a) and (c) of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies.</p> <p>10 (2) If the consent is suspended by the Board, or by the pipeline company in accordance with subsection 10(1) of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies, the authorization is suspended and the activity must cease for the duration of the suspension of the consent.</p> <p>10 (3) Any person that is engaged in an activity that causes a ground disturbance within the prescribed area must comply with the following measures:</p>	<p>8.2 Seeking permission and permits The planner shall obtain or arrange for any applicable permission and permits required for the proposed ground disturbance.</p> <p>10.1.1.1 Except in the case of emergency situations, the excavator shall contact owners to inform of a ground disturbance at least five business days prior to ground disturbance</p> <p>a) via a one-call service; or</p> <p>b) directly where there is no one-call service.</p> <p>10.1.1.2 The owner shall provide positive response back to the excavator within</p> <p>a) five business days; or</p> <p>b) a period as defined by the requirements of the authority having jurisdiction.</p> <p>10.1.1.3 In emergency situations, response to a request for locate information shall be provided</p> <p>a) by the owner as soon as possible; or</p> <p>b) in accordance with existing agreements and requirements.</p> <p>10.4.2.1</p>	<p>The CCGA strongly suggests the DPR defines "emergency" and maintains language governing emergencies that appears in the PCRs Part I.</p> <p style="background-color: yellow;">Emergency Definition: <i>emergency means an unexpected situation that could endanger life or cause substantial property or environmental damage and that requires immediate action; (urgence)</i></p> <p style="background-color: red; color: white;">10(1)(a) - See comment in covering letter.</p>

**CCGA Comments on Proposed Damage Prevention Regulations
April 2016**

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
<p>(ii) ensures that the pipeline company explains, to the satisfaction of the excavator, the significance of the stakes that identify the location of the pipeline company's pipes;</p> <p>(i) the excavator does not excavate mechanically within a restricted area;</p> <p>(j) the excavator does not excavate mechanically within three metres of a pipe unless</p> <p>(i) the pipe has been exposed by hand at the point of crossing or, where the excavation runs parallel to the pipe, at sufficient intervals to confirm the location of the pipe,</p> <p>(ii) where the excavation crosses a pipe, the pipeline company has informed the excavator that it has confirmed the location of the pipe by probing, and the pipe is at least six tenths of a metre deeper than the proposed excavation,</p> <p>(iii) where the excavation runs parallel to the pipe, the pipeline company has informed the excavator that it has confirmed the location of the pipe by probing, or</p> <p>(iv) where ground conditions render exposure of the pipe by hand impractical, the pipeline company has agreed that the excavation may be performed safely to within one metre of the pipe, and the pipeline company directly supervises the excavation;</p> <p>(k) when boring directionally or using explosives, unless otherwise authorized by the Board, the excavator complies with the conditions imposed by the pipeline company respecting directional boring or the use of explosives;</p> <p>(l) the excavator complies with the instructions of an authorized field representative of the pipeline company regarding the procedures to be followed while working in the vicinity of a pipe;</p> <p>(m) where interference with or alteration of a pipe is necessary, the excavator obtains prior written consent of the pipeline company;</p> <p>(n) where the excavator receives the consent referred to in paragraph (m), the work is carried out under the supervision of the pipeline company;</p> <p>(o) the excavator immediately notifies the pipeline company of any contact with the pipeline company's pipe or its coating; and</p> <p>(p) unless otherwise agreed on by the pipeline company and the excavator, the excavator notifies the pipeline company at least 24 hours prior to backfilling over the pipe.</p>	<p>(a) ensure that the activity is carried out in accordance with the technical details that are set out in the person's request for consent and that have been accepted by the pipeline company, as well as with the conditions set out in the pipeline company's consent, including the conditions respecting directional drilling or the use of explosives;</p> <p>(b) ensure that the activity is completed within two years after the day on which the consent was obtained, unless the pipeline company and the person agree on another time period that is set out in the consent;</p> <p>(c) not undertake mechanical excavation that would cause a ground disturbance within the prescribed area within 3 m of a pipe, unless</p> <p>(i) if the excavation runs parallel to the pipe, the pipe has been exposed by hand at sufficient intervals to confirm the pipe's location or the pipeline company has used a method that would permit it to confirm the pipe's exact location and has informed the person of that location,</p> <p>(ii) if the excavation crosses the pipe, the pipe has been exposed by hand at the point of crossing or the pipeline company has used a method that would permit it to confirm the pipe's exact location, has informed the person of that location and has confirmed that the pipe is at least 60 cm deeper than the proposed excavation, and</p> <p>(iii) if ground conditions render it impractical to locate the pipe using any of the methods set out in subparagraphs (i) and (ii), the pipeline company directly supervises any excavation;</p> <p>(d) comply with the instructions of the pipeline company's authorized field representative regarding the procedures that are to be followed during the activity and that relate to the pipeline's safety and security;</p> <p>(e) if interference with or alteration of a pipe becomes necessary, obtain the pipeline company's written consent to interfere with or alter the pipe;</p> <p>(f) carry out any activity that involves the interference with or alteration of a pipe under the pipeline company's supervision;</p> <p>(g) immediately notify the pipeline company of any contact with a pipe or its coating during the activity; and</p> <p>(h) unless otherwise agreed on by the pipeline company and the person that is engaged in the activity, notify the pipeline company at least 24 hours before backfilling over a pipe.</p>	<p>The excavator shall use only the following ground disturbance methods in the infrastructure's hand expose zone to determine location of the underground infrastructure, unless an alternate method is approved by the owner:</p> <p>a) hand digging; or b) vacuum excavation.</p> <p>10.4.2.2 The requirement specified in Clause 10.4.2.1 shall include the use of mechanical equipment to lift the hard surface to allow hand digging or vacuum excavation, provided the activity does not</p> <p>a) disturb the soil beneath; or b) further reduce cover other than the thickness of the hard surface being removed.</p> <p>10.4.3 Use of mechanical equipment for ground disturbance* The excavator shall ensure all safe work practices are used, including, but not limited to, the following:</p> <p>a) hand exposure of underground infrastructure; b) use of an observer/spotter; c) identification of aboveground infrastructure or other obstructions; d) identification of position of equipment; e) providing proper support around all existing underground infrastructure; and f) no repositioning of existing underground infrastructure.</p> <p>10.4.4 Hand expose zone When the ground disturbance is within the hand expose zone, the excavator shall take all reasonable steps, including, but not limited to, the following:</p> <p>a) using non-destructive means, such as hand digging or vacuum excavation, to expose the existing underground infrastructure in order to visually determine there will be no conflict between the underground infrastructure and the proposed ground disturbance; b) exposing the existing underground infrastructure at sufficient intervals to clearly identify the depth and alignment to avoid damage when the proposed ground disturbance path is parallel to and within the hand expose zone of an existing underground infrastructure; and c) providing proper support around all existing underground infrastructure.</p>	

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
		<p>10.5.1 When ground disturbance activities involve horizontal or directional boring or drilling in the approximate location within 1 m horizontally or vertically of underground infrastructure, the excavator shall expose that underground infrastructure in a safe manner, such as hand digging or vacuum excavation, to visually verify its location and depth at each location where the drill or bore path will cross such underground infrastructure and at reasonable intervals when paralleling that underground infrastructure.</p> <p>10.5.2 When existing underground infrastructure is known to be present, but cannot be visually identified as a result of the local conditions, the owner and the excavator, in consultation with the authority having jurisdiction, shall agree on methods to safely proceed with the ground disturbance.</p> <p>10.5.3 The following conditions shall be met by the excavator for boring or directional drilling across and in parallel to existing underground infrastructure: a) It shall be ensured that one or more holes identify and confirm that the bore is maintained at the required separation between the existing underground infrastructure and the new underground infrastructure being installed. b) The progress of the bore shall be continuously monitored, and it shall be confirmed that the drill head is at the expected depth and location. c) If the bore is not at the expected depth and location, the bore shall be stopped and reassessed. d) It shall be confirmed that there are no hazards prior to recommencing the bore.</p> <p>10.3 Damage to underground infrastructure* 10.3.1 Any contact with or damage to underground infrastructure shall be reported immediately by the excavator to the owner. <i>Note: Where a one-call service exists, the one-call service can assist in contacting the owner.</i> 10.3.2 Excavators discovering or causing damage to underground infrastructure shall immediately a) stop work; and b) notify the owner of the condition of the underground infrastructure and request guidance on how to proceed. <i>Note: This includes, but is not limited to, the following:</i> a) breaks;</p>	

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
		b) <i>leaks</i> ; c) <i>nicks in the coating or underground infrastructure</i> ; d) <i>dents</i> ; e) <i>gouges</i> ; f) <i>grooves</i> ; or g) <i>other noted damages to the underground infrastructure</i> . 10.6.1 All excavators shall follow and comply with the owner's conditions during backfill when working within the vicinity of the owner's underground infrastructure; recognizing there might be additional requirements from the authority having jurisdiction associated with other underground infrastructure. 10.6.2 Backfilling shall be conducted in a manner to prevent damage to the underground infrastructure.	
<p>7 Leave of the Board is not required for an excavation required for the maintenance of an existing facility if the circumstances and conditions set out in paragraphs 6(f) to (p) are met.</p>	<p>11 For the purposes of subsection 112(1) of the Act, any maintenance of an existing facility — in an area other than an offshore area — that causes a ground disturbance within the prescribed area is authorized if the person engaged in the maintenance complies with paragraphs 10(1)(b) and (c) and the measures set out in paragraphs 10(3)(c) to (h).</p>		<p>No comment.</p>
<p>8 Where leave of the Board is required, the facility owner or excavator shall file an application for leave with the Board and serve a copy of the application for leave on the pipeline company.</p>	<p>14 (1) A person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within the prescribed area of a pipeline or operate a vehicle or mobile equipment across a pipeline may file an application for authorization with the Board if</p> <p style="padding-left: 40px;">(a) the construction, activity or operation is not authorized under subsection 7(1), 9(1) or 10(1) or section 11 or 12; or</p> <p style="padding-left: 40px;">(b) the person is unable to comply with the applicable measures set out in subsection 7(3), 9(2) or 10(3).</p> <p>14 (2) If a person files an application under subsection (1), that person must serve a copy of the application on the pipeline company that operates the pipeline in question.</p>		<p>In regards to regulatory clarity, the CCGA finds the language of section 14(1) and 14(2) unnecessarily confusing and prefers the language from section 8 of the PCRs Part I.</p>
<p>9 When a pipeline company receives a request from a facility owner or an excavator to locate its pipes, the pipeline company may designate an area situated in the vicinity of the proposed facility or excavation, which may extend beyond 30 m from the pipeline, as a restricted area in which no excavation may be performed until the pipes are located and marked by the pipeline company or the expiry of three working days after the date of the request, whichever occurs first, unless the pipeline company and the facility owner or excavator have agreed on an extension of time for the pipeline company to locate and mark the pipes.</p>	<p>5 If a pipeline company, after having received a locate request from a person that intends to engage in an activity that would cause a ground disturbance within a prescribed area, designates an area that is situated in the vicinity of a pipeline and that may extend beyond the prescribed area as a prohibition area, the ground disturbance is prohibited within the area during the period referred to in subsection 112(5.1) of the Act.</p>		<p>The CCGA recognizes maintaining the safety provisions of the previously entitled "restricted area" but questions why the term was changed to "Prohibition Area". Changing regulatory language without changing its meaning seems pointlessly confusing.</p>
<p>NEB ACT 112 (2) Subject to subsection (5), no person shall operate a vehicle or mobile equipment across a pipeline unless leave is first obtained</p>	<p>12 Subject to section 13 and for the purposes of paragraph 112(2)(a) of the Act, the operation of a vehicle or mobile equipment across a pipeline</p>		<p>No comment.</p>

**CCGA Comments on Proposed Damage Prevention Regulations
April 2016**

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
<p>from the company or the vehicle or mobile equipment is operated within the travelled portion of a highway or public road.</p> <p>MO-21-2010</p> <p>1. Subject to Paragraphs (2) and (3), where all of the following low-risk conditions (“Low- Risk Conditions”) exist on the intended crossing location of the right-of-way of a buried pipeline, it is not necessary for landowners and land users to obtain leave from the pipeline company pursuant to Section 112(2) of the Act:</p> <ul style="list-style-type: none"> (a) a) the agricultural vehicle or mobile equipment is used to perform an agricultural activity across the pipeline and does not disturb more than 30 centimetres (12 inches) of soil cover; (b) b) when in operating mode, the vehicle or mobile equipment is not removing or adding soil cover; (c) c) soil conditions are such that they ensure minimal rutting when agricultural vehicles or mobile equipment are driven over the pipeline; and (d) d) loaded axle weight and tire pressures are within the manufacturer’s approved limits and operating guidelines except for, but are not limited to: large harvesters, large grain transporters (for instance, Super B-trains). <p>5. In this Order,</p> <p>a) “agricultural activities” includes the work of producing crops and raising livestock including tillage, plowing, disking, harrowing, pasturing, mushroom growing, nursery, and sod operations and installation of conservation measures; but does not include construction of new buildings, impervious area (i.e., cement) or placement of footings, foundations, pilings or fence posts.</p>	<p>is authorized if the person that intends to operate the vehicle or mobile equipment across the pipeline obtains the pipeline company’s written consent.</p> <p>13 (1) For the purposes of paragraph 112(2)(a) of the Act, the operation across the pipeline of a vehicle or mobile equipment that is used to perform an agricultural activity is authorized if the following conditions are met:</p> <ul style="list-style-type: none"> (a) the loaded axle weight and tire pressures of the vehicle or mobile equipment are within the manufacturer’s approved limits and operating guidelines; and (b) the point of crossing has not been the subject of a notification under section 7 of the National Energy Board Pipeline Damage Prevention Regulations – Obligations of Pipeline Companies. <p>13 (2) In this section, “agricultural activity” means the work of producing crops and raising livestock and includes tillage, 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>15 (1) Any leave granted by the Board prior to June 19, 2016 to construct a facility across, on, along or under a pipeline or to excavate using power-operated equipment or explosives within 30 m of a pipeline under subsection 112(1) of the Act, as it read immediately prior to that date, expires on the date set out in the leave, but if there is no date set out in the leave it expires two years after the day on which the leave was granted.</p> <p>15 (2) Any leave granted by the pipeline company prior to June 19, 2016 to operate a vehicle or mobile equipment across a pipeline under subsection 112(2) of the Act, as it read prior to that date, expires on the date set out in the leave granted by the pipeline company.</p> <p>16 The construction or installation of a facility in respect of which a person has obtained written permission under paragraph 4(b) of the National Energy Board Pipeline Crossing Regulations, Part I prior to June 19, 2016 is authorized under subsection 112(1) of the Act, as it reads on June 19,</p>		No comment.

**CCGA Comments on Proposed Damage Prevention Regulations
April 2016**

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
	<p>2016, and the measures to be taken in relation to that construction or installation are those set out in paragraphs 4(a) to (m) of those Regulations as they read immediately before the day on which these Regulations come into force.</p> <p>17 An excavation in respect of which a person has obtained the pipeline company's written permission under paragraph 6(b) of the National Energy Board Pipeline Crossing Regulations, Part I prior to June 19, 2016 is an authorized ground disturbance under subsection 112(1) of the Act, as it reads on June 19, 2016, and the measures to be taken in relation to the excavation are those set out in section 6 of those Regulations as it read immediately before the day on which these Regulations come into force.</p>		
Pipeline Company Responsibilities /			
	<p>2 (1) If a pipeline company operates a pipeline within a geographical area where a one-call centre exists, the pipeline company must be a member of that centre.</p> <p>2 (2) A one-call centre is an organization that, for the purposes of protecting the underground infrastructures of its members from damage and ensuring public safety,</p> <ul style="list-style-type: none"> (a) receives locate requests from within a defined geographical area; and (b) notifies its members that may be affected by any proposed construction or any proposed activity that would cause a ground disturbance and that are the subject of a locate request of that construction or activity. 	<p>4.1 Owners shall consider registering their underground infrastructure with a one-call service to ensure simplified access to reduce damage.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1) For the purposes of this Clause, "shall consider" means that the user evaluates the impact and documents any decisions. 2) Registration with a one-call service is the preferred approach, as it is proven to reduce damages. 3) In some jurisdictions, registration with a one-call service is mandatory. <p>4.2 If an owner elects not to join a one-call service where one is available, the owner shall</p> <ol style="list-style-type: none"> a) conduct a risk assessment (see Clause 5.3*) to evaluate and document the reasons for not doing so; and b) maintain this documentation on record. <p>4.3 Owners that are not registered with a one-call service where one is available shall develop a public awareness program that</p> <ol style="list-style-type: none"> a) clarifies to stakeholders that the organization is not a member of the local one-call service; b) provides information on how the owner can be contacted; and c) is consistent with the size and scale of the organization's underground infrastructure. 	<p>This is a significant improvement and consistent with national efforts to make registering with a notification centre mandatory through legislation. The CCGA encourages the Board to continue its support of this objective and to remain consistent with this initiative.</p>
<p>4 (1) Every pipeline company shall establish an ongoing public awareness program to inform the public of</p> <ul style="list-style-type: none"> (a) the presence of the pipeline; and (b) the public's responsibilities regarding any construction or installation of a facility and any excavation that might affect the pipeline. 	<p>16 The damage prevention program that a pipeline company is required to develop, implement and maintain under section 47.2 of the <i>National Energy Board Onshore Pipeline Regulations</i> must include</p> <ul style="list-style-type: none"> (a) an ongoing public awareness program to inform the public <ul style="list-style-type: none"> (i) of the presence of a pipeline, (ii) on how to work safely near a pipeline, 	<p>6.1 A public awareness program shall</p> <ol style="list-style-type: none"> a) be current and designed to raise awareness of the presence of underground infrastructure and safe ground disturbance practices; b) elicit positive behavioural changes by the public; and c) inform, educate, promote, and enhance the safety message to the public. 	<p>This is a positive and tangible improvement for damage prevention efforts. Specific and prescriptive deliverables for a robust public awareness program, as part of a Damage Prevention Program, is welcome.</p> <p>The CCGA notes, however, that this is also an instance where referencing CSA Z247 would be additionally beneficial.</p>

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
<p>(2) Every pipeline company shall assess the effectiveness of its public awareness program on a regular basis and shall maintain a record of the assessment.</p>	<ul style="list-style-type: none"> (iii) on how to report an unexpected situation related to a pipeline that could endanger life or cause substantial property or environmental damage that requires immediate action, (iv) on how to report any contact with a pipe or its coating, whether or not the pipe was damaged, (v) on how to report any damage to a pipe, (vi) of the services of a one-call centre if one exists within the relevant geographical area, (vii) on the necessity for authorization when constructing a facility across, on, along or under a pipeline, engaging in an activity that causes a ground disturbance within the prescribed area or operating vehicles or mobile equipment across a pipeline, (viii) of the information to be provided in a request for the consent to construct a facility across, on, along or under a pipeline, to engage in an activity that causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across a pipeline, and (ix) on the requirement to make a locate request and how to make a locate request in the relevant geographical area; 	<p>Notes:</p> <p>1) <i>The owner's providing ongoing public awareness programs is a component of damage prevention to all underground infrastructure.</i></p> <p>2) <i>In Canada, a public awareness program should promote awareness of the local one-call service, where one exists, and Canada's one-window locate request portal, www.ClickBeforeYouDig.com.</i></p> <p>6.2 Public awareness programs shall provide key messages on how to</p> <ul style="list-style-type: none"> a) prevent damaging underground infrastructure; and b) respond in case of an emergency associated with a damaged underground infrastructure. <p>6.3 The public awareness programs shall be assessed and documented on a regular basis to ensure effectiveness and should consider the following:</p> <ul style="list-style-type: none"> a) a review of the public awareness program to account for all relevant changes; b) collaborative public awareness programs with industry peers; and c) a third-party/peer review. 	
	<p>16 The damage prevention program that a pipeline company is required to develop, implement and maintain under section 47.2 of the <i>National Energy Board Onshore Pipeline Regulations</i> must include</p> <ul style="list-style-type: none"> (a) 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; (b) ongoing monitoring of any change in the landowner of the land on which a pipeline is located; (c) a process to ensure a timely response to locate requests; (d) standards for locating a pipeline; and (e) a process for managing requests for the consent to construct a facility across, on, along or under a pipeline, to engage in an activity that causes a ground disturbance within the prescribed area or to operate a vehicle or mobile equipment across the pipeline. 	<p>5.1 The owner shall develop, implement, and maintain a damage prevention program for the protection of people, the environment, and property. Note: <i>Damage prevention programs can vary in size and scope, and are intended to reduce the frequency of preventable damage.</i></p> <p>5.2 The owner shall consider including the following elements in the damage prevention program:</p> <ul style="list-style-type: none"> a) program planning and development; b) technical content establishing minimum requirements or consideration for <ul style="list-style-type: none"> i) public awareness; ii) hazard management; iii) surveillance and monitoring; iv) crossings; and v) program evaluation audit and continual improvement; c) clearly articulated policy and leadership commitment; d) an organizational structure with well-defined responsibilities and authorities that supports the effective implementation of the damage prevention program; e) a process for the management of resources, including 	<p>Regarding Section 16(a), is the Board planning to provide guidance on expectations?</p> <p>"Ongoing" monitoring may be open to interpretation to mean many things. Will there be guidance on: expected frequency, methods of monitoring, record keeping, and pipeline company response to changes?</p>

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
		i) the establishment of competency requirements; ii) an effective training program; and iii) contractor selection and performance monitoring; and f) a communication plan that supports the effective implementation and operation of the damage prevention program. Note: For the purposes of this Clause, “shall consider” means that the user evaluates the impact and documents any decisions. 5.3* The owner shall conduct and document a risk assessment that a) considers risk factors associated with the infrastructure location, and appropriate damage prevention measures for the underground infrastructure; and b) develops public awareness programs based on the potential risk to all stakeholders.	
<p>5 (1) Every pipeline company shall develop detailed guidelines setting out the technical and other information to be included in requests for permission referred to in paragraph 4(b) or 6(b) of the <i>National Energy Board Pipeline Crossing Regulations, Part I</i>, and shall make those guidelines public.</p> <p>(2) The guidelines referred to in subsection (1) shall be submitted to the Board for approval prior to release to the public.</p>	<p>15 Every pipeline company must develop and maintain detailed guidelines setting out the technical and other information to be included in the requests for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) of the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i> and must make those guidelines public.</p>		
<p>6 (1) Where a pipeline company receives a request for permission, pursuant to paragraph 4(b) or 6(b) of the <i>National Energy Board Pipeline Crossing Regulations, Part I</i>, in accordance with the guidelines referred to in section 5, the pipeline company shall, within ten working days after receiving the request, inform the facility owner or excavator</p> <p style="padding-left: 20px;">(a) whether permission has been granted; and (b) where permission has been refused, of the reasons for the refusal.</p> <p>(2) Where permission is granted pursuant to subsection (1), unless the pipeline company and the facility owner or excavator agree otherwise, the permission lapses if the construction or installation of the facility or the excavation is not completed within two years after the date the permission was granted.</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 <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i>, the pipeline 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>3 (2) When a person makes a request to the pipeline company for the written consent referred to in paragraph 7(1)(a) or 10(1)(a) of the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i> that contains the technical and other information that enable the pipeline company to determine whether the construction or activity would impair the pipeline’s safety and security, the pipeline company may grant its consent subject to any conditions necessary for the protection of property and the environment, the safety and security of the public and of the company’s employees or the pipeline’s safety and security.</p> <p>3 (3) At any time during the construction of a facility or the activity that causes a ground disturbance, the pipeline company may add conditions or amend the conditions referred to in subsection (2) if it determines that</p>		<p>GENERAL COMMENT - The additions in Section 3(2) specifies the need for the applicant to provide all the necessary information to assess the request. This is a positive addition.</p> <p>GENERAL COMMENT - Section 3(3) positively enhances damage prevention efforts, as it allows the pipeline company to make changes during the course of the work if site conditions warrant.</p>

**CCGA Comments on Proposed Damage Prevention Regulations
April 2016**

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
	additions or amendments are necessary to ensure the pipeline's safety and security.		
<p>7 Where a facility owner or excavator applies for leave of the Board, the pipeline company shall, within ten working days after receiving a request for information relevant to the application, give the facility owner or excavator all the information, and provide all reasonable assistance, needed to prepare the application.</p>	<p>4 If a person that intends to construct a facility across, on, along or under a pipeline, engage in an activity that would cause a ground disturbance within the prescribed area of a pipeline or operate a vehicle or mobile equipment across a pipeline has made a request to the pipeline company for the information that is necessary to make an application to the Board for authorization, the pipeline company must, within 10 working days after receiving the request, give the person all the information, and provide all reasonable assistance, that is necessary to prepare the application.</p>		No comment.
<p>8 Where a pipeline company receives a copy of an application for leave that has been filed with the Board, the pipeline company shall, within 10 working days after receiving the copy of the application, send to the Board its comments, if any, regarding the safety of the proposed facility or excavation in respect of the pipeline.</p>	<p>5 If a pipeline company receives a copy of an application for authorization that has been filed with the Board, the pipeline company must, within 10 working days after receiving the copy of the application, send to the Board its comments on the application.</p>		No comment.
<p>9 (1) Subject to subsection (2), when a pipeline company receives a request from a facility owner or an excavator to locate its pipes, the pipeline company shall, within three working days after the date of the request, or any longer period agreed to by the pipeline company and the facility owner or excavator</p> <ul style="list-style-type: none"> (a) inform the facility owner or excavator, in writing, of any special safety practices to be followed while working in the vicinity of its pipes; (b) mark the location of its pipes in the vicinity of the proposed facility or excavation at maximum intervals of 10 m along each pipe using stakes that are clearly visible and distinct from any other stakes or markings that may be in the vicinity of the proposed facility or excavation; and (c) explain the significance of the stakes to the satisfaction of the facility owner or excavator. <p>(2) Where ground conditions preclude the placing of the stakes referred to in subsection (1), paint or other suitable methods of marking may be substituted if the paint or marking is</p> <ul style="list-style-type: none"> (a) clearly visible; (b) distinct from all other markings in the vicinity of the proposed facility or excavation; and (c) compatible with any local standard colour codes used for marking buried pipe. 	<p>6 (1) Subject to subsection (2), if a pipeline company receives a request to locate its pipes from a person that intends to construct a facility across, on, along or under a pipeline or engage in an activity that would cause a ground disturbance within the prescribed area, the pipeline company must, within three working days after the day on which the request is made, or any longer period agreed to by the pipeline company and that person,</p> <ul style="list-style-type: none"> (a) inform the person, in writing, of safety practices to be followed while working in the vicinity of its pipes and, in case of a ground disturbance, within the prescribed area; (b) mark the location of its pipes in the vicinity of the proposed facility or the prescribed area at maximum intervals of 10 m along each pipe using markings that are clearly visible and distinct from any other markings that may be in the vicinity of the proposed facility or the prescribed area; and (c) provide information to the person that clearly explains the significance of the markings. <p>6 (2) The markings must be consistent with the standards for locating a pipeline that are set out in the pipeline company's damage prevention program.</p>	<p>10.1.1.2 The owner shall provide positive response back to the excavator within</p> <ul style="list-style-type: none"> a) five business days; or b) a period as defined by the requirements of the authority having jurisdiction. <p>10.1.1.3 In emergency situations, response to a request for locate information shall be provided</p> <ul style="list-style-type: none"> a) by the owner as soon as possible; or b) in accordance with existing agreements and requirements. <p>10.1.3.1 Markings for underground infrastructure shall be in accordance with the following colour code:</p> <p>RED Electric power lines, cables or conduits, and lighting cables YELLOW Gas, oil, steam, petroleum, or other hazardous liquid or gaseous materials ORANGE Communications, cable TV, alarm or signal lines, cables, or conduit BLUE Potable water GREEN Sewers, storm sewer infrastructure, other drain lines WHITE Proposed ground disturbance PINK Temporary survey markings PURPLE Reclaimed water, irrigation, and slurry lines</p> <p>10.1.4.1 Locators shall use marking systems appropriate for existing and expected surface conditions.</p> <p>10.1.4.2</p>	<p>See comment in covering letter.</p>

**CCGA Comments on Proposed Damage Prevention Regulations
April 2016**

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
		<p>Markings shall have sufficient width, length, and intervals to identify the location of the underground infrastructure, including any directional changes of the underground infrastructure.</p> <p>10.1.4.3 The markings shall clearly identify the location of the underground infrastructure.</p> <p>10.1.5 Positive response to locate request All underground infrastructure locate requests shall result in a positive response from the owner or authorized representative of the owner to the excavator.</p> <p>10.1.10.1 The locator shall complete a locate form that captures all the information required when completing a locate and provide a copy to the excavator.</p> <p>10.1.10.2 The information captured on the locate form shall include, but is not limited to, the following: a) the locator identification; b) owner or owners of the underground infrastructure; c) 24-hour emergency contact number for each owner; d) locate date; e) excavator name; f) unique locate identification number; g) lifespan of the locate; h) hand expose zone; i) sketch of the underground infrastructure in relation to the work area; and j) description of the underground infrastructure that is located.</p>	
<p>MO-21-2010 2. The pipeline company has the responsibility to identify all site specific locations within its pipeline right-of-ways where crossings in Low-Risk Conditions will jeopardize the safe and secure operation of its pipeline.</p> <p>3. In circumstances where the pipeline company has identified site specific locations within its pipeline right-of-ways where crossings in Low-Risk Conditions will jeopardize the safe and secure operation of its pipeline pursuant to Paragraph (2), the pipeline company shall provide written notification to:</p> <ul style="list-style-type: none"> a) the Board; b) landowner(s) within identified location(s) along the pipeline right-of-way where crossings in Low-Risk Conditions will jeopardize the safe and secure operation of the pipeline; and c) known land user(s) within identified location(s) along the pipeline right-of-way where crossings in Low-Risk Conditions will jeopardize the safe and secure operation of the pipeline; 	<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:</p> <ul style="list-style-type: none"> (a) landowners of the specific locations in question; and (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. 		<p>No comment.</p>

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
to advise that site-specific conditions exist such that crossing of its pipeline in Low-Risk Conditions requires leave of the pipeline company pursuant to Section 112(2) of the Act.			
<p>10 The pipeline company shall</p> <ul style="list-style-type: none"> (a) carry out such inspections as are necessary to ensure the continued safety of the pipeline during the period of excavation in the vicinity of a pipe and backfilling over a pipe; (b) inspect all exposed pipe prior to backfilling to ensure that no damage to a pipe has occurred; (c) in respect of the inspections referred to in paragraphs (a) and (b), maintain a record of all findings and observations; and (d) include in the record referred to in paragraph (c) the following information: <ul style="list-style-type: none"> (i) the name of the person conducting the inspection, (ii) the date and time of the inspection, and (iii) any field observations relating to <ul style="list-style-type: none"> (A) where a pipe was exposed during the construction or installation of a facility or during an excavation, the clearance between the pipe and the facility and the condition of the pipe at the time of backfilling over the pipe, (B) whether the facility owner or excavator has met the circumstances and conditions set out in the <i>National Energy Board Pipeline Crossing Regulations, Part I</i>, (C) the method of excavation, and (D) any unusual events during the construction or installation of the facility or during the excavation that may have had an effect on the safety or integrity of the pipeline. 	<p>8 The pipeline company must</p> <ul style="list-style-type: none"> (a) carry out any inspections that are necessary to ensure the pipeline’s continued safety and security during an activity that causes a ground disturbance within the prescribed area; (b) inspect all exposed pipe prior to any backfilling over a pipe to ensure that no damage to the pipe has occurred; and (c) in respect of any inspection carried out under paragraphs (a) and (b), make field observations relating to <ul style="list-style-type: none"> (i) if a pipe was exposed, the clearance between the pipe and the facility and the condition of the pipe at the time of backfilling over the pipe, (ii) the compliance with the measures set out in the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i>, (iii) the method used to engage in the activity that caused a ground disturbance, and (iv) the occurrence of any unusual events that are related to the construction or activity and that may have had an effect on the pipeline’s safety or security. 		No comment.
<p>11 (1) The pipeline company shall maintain records of all construction or installation of facilities and of all excavations for the useful life of the pipeline.</p> <p>(2) The records referred to in subsection (1) shall include, for each facility or excavation, as the case may be,</p> <ul style="list-style-type: none"> (a) the name and address of the facility owner and excavator; (b) the nature and location of the facility or excavation; (c) the dates of commencement and termination of the construction or installation of the facility or of the excavation; (d) a description of the facility, submitted by the facility owner with the request for permission; (e) a copy of the pipeline company’s written permission to the facility owner or excavator or an indication that leave of the Board was granted; (f) a copy of every inspection record maintained pursuant to paragraph 10(c); 	<p>12 (1) The pipeline company must keep a record of all construction of facilities across, on, along or under a pipeline and of all activities that cause a ground disturbance within the prescribed area for the life of the pipeline, including its abandonment.</p> <p>12 (2) The records must include, for each facility or each activity that causes a ground disturbance, as the case may be,</p> <ul style="list-style-type: none"> (a) the name and address of the person that carries out the construction or engages in an activity that causes a ground disturbance; (b) the nature and location of the facility or the activity that causes a ground disturbance; 	<p>11.1.1 All stakeholders engaged in the damage prevention process shall retain accurate records of their locate documentation, notifications, ground disturbances, and emergency response plans as required for business purposes and by the authority having jurisdiction.</p> <p>11.1.2 Completion, confirmation, and reporting shall include the following:</p> <ul style="list-style-type: none"> a) completion of locate request; b) completion of locate; c) completion of ground disturbance; d) completion of as-built drawing; e) completion of backfill; and f) completion of updated mapping. 	

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
<p>(g) a statement whether the facility owner or excavator has met the circumstances and conditions set out in the <i>National Energy Board Pipeline Crossing Regulations, Part I</i>; and</p> <p>(h) the details of the abandonment, removal or alteration of any facility.</p>	<p>(c) the dates of commencement and termination of the construction of the facility or the activity that causes a ground disturbance;</p> <p>(d) a description of the proposed facility, submitted with the request for the consent;</p> <p>(e) a copy of the pipeline company's written consent;</p> <p>(f) in respect of the inspections referred to in paragraphs 8(a) and (b), all findings and observations, including</p> <ul style="list-style-type: none"> (i) the name of the person that conducted the inspection, (ii) the date and time of the inspection, and (iii) any field observations referred to in paragraph 8(c); <p>(g) a statement of whether the person that carried out the construction or the person that engaged in an activity that caused a ground disturbance has complied with the measures set out in the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i>; and</p> <p>(h) the details of any abandonment, removal or alteration of the facility.</p> <p>12 (3) The pipeline company must keep a record that contains a copy of the written consents granted by the pipeline company for the purposes of section 12 of the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i> for the life of the pipeline or, if there is an expiry date set out in the consent, for a period of 12 months from the day on which the consent expires.</p> <p>12 (4) The pipeline company must keep a record of the locations that are identified under section 7.</p>		<p>Re: Section 12(3) - the DPRs identify a retention period for either the life of pipeline <u>or</u> 12 months from the day that the consent expires. This is confusing.</p> <p>The written consents issued by pipeline companies typically identify an expiry date for the commencement and completion of work; and, almost every consent will have an expiry. Section 12(3) appears to remove the requirement to retain written agreements beyond 12 months after the consent expires. Or, does the Board mean that only written consents for <i>completed</i> works must be retained? Furthermore, how does this section align with section 7(3)(b), which requires pipeline companies to ensure the construction is carried out within 2 years following consent?</p> <p>The CCGA notes clarification of this section is required.</p>
<p>12 (1) On the request of the Board, the pipeline company shall provide the Board with a list of every permission granted pursuant to the <i>National Energy Board Pipeline Crossing Regulations, Part I</i>.</p> <p>(2) The list referred to in subsection (1) shall include the information referred to in paragraphs 11(2)(a) to (c).</p>	<p>14 On the request of the Board, the pipeline company must provide the Board with</p> <ul style="list-style-type: none"> (a) a list of every written consent granted for the purposes of section 12 of the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i>; (b) a list of every written consent granted by the pipeline company with respect to the construction of a facility or an activity that causes a ground disturbance and the information referred to in paragraphs 12(2)(a) to (c) with respect to the consent; and 		

CCGA Comments on Proposed Damage Prevention Regulations
April 2016

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
	<p>(c) a list of every permission granted by the pipeline company for the purposes of the <i>National Energy Board Pipeline Crossing Regulations, Part I</i> and the information referred to in paragraphs 11(2)(a) to (c) of the <i>National Energy Board Pipeline Crossing Regulations, Part II</i> with respect to the permission.</p>		
<p>13 (1) The pipeline company shall immediately report to the Board (a) every contravention of the <i>National Energy Board Pipeline Crossing Regulations, Part I</i>; (b) all damage to its pipe caused or observed during the construction or installation of a facility or during an excavation or during the operation, maintenance or removal of a facility; and (c) any activity of the facility owner or excavator that the pipeline company considers to be potentially hazardous to a pipe.</p> <p>(2) The report referred to in subsection (1) shall include (a) details of any contravention or of any damage, including, in the case of damage, the cause and nature thereof; (b) any concerns the pipeline company may have regarding the safety of the pipeline as a result of the construction or installation or of the excavation; and (c) any action the pipeline company intends to take or request.</p>	<p>11 (1) The pipeline company must immediately report to the Board</p> <p>(a) every contravention of the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i>; (b) all damage to its pipe caused or identified during the construction of a facility across, on, along or under a pipeline, the operation, maintenance or removal of a facility, an activity that caused a ground disturbance within the prescribed area or the operation of vehicles or mobile equipment across the pipeline; and (c) any activity related to the construction of a facility across, on, along or under a pipeline, an activity that caused a ground disturbance within the prescribed area or the operation of vehicles or mobile equipment across a pipeline that the pipeline company considers could impair the safety or security of the pipe.</p> <p>11 (2) The report must include the following information:</p> <p>(a) details of any contravention or of any damage, including, in the case of damage, the cause and nature of the damage; (b) any concerns that the pipeline company may have regarding the pipeline’s safety or security as a result of the construction of the facility, the activity that caused a ground disturbance or the operation of vehicles or mobile equipment across the pipeline; and (c) any action the pipeline company intends to take or request.</p>		<p>GENERAL COMMENT: It is a positive change that any violations related to vehicle operation are embedded into the regulations and therefore subject to NEB reporting.</p>
<p>14 (1) Where the pipeline company or the Board is satisfied that unsafe construction practices have been or are being used, the pipeline company or the Board may suspend, for such period as it considers necessary, the permission given by the pipeline company to construct or install a facility or to excavate. (2) Where a pipeline company suspends its permission pursuant to subsection (1), the pipeline company shall immediately notify the Board of its decision giving its reasons therefor.</p>	<p>10 (1) The pipeline company may suspend the consent that it granted to construct a facility or to engage in an activity that causes a ground disturbance within the prescribed area if</p> <p>(a) the person carrying out the construction of a facility does not comply with the technical details and the conditions referred to in paragraph 7(3)(a) of the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i> or the instructions referred to in paragraph 7(3)(c) of those Regulations; (b) the person engaging in an activity that causes the ground disturbance does not comply with the technical details and the</p>		<p>No comment.</p>

**CCGA Comments on Proposed Damage Prevention Regulations
April 2016**

NEB PCR	Proposed NEB DPR	CSA Z247	Comments
	<p>conditions referred to in paragraph 10(3)(a) of the <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i> or the instructions referred to in paragraph 10(3)(d) of those Regulations; or</p> <p>(c) work practices might impair the pipeline’s safety or security.</p> <p>10 (2) If a pipeline company suspends its consent pursuant to subsection (1), it must immediately notify the Board in writing of the suspension and give its reasons for the suspension.</p>		
<p>15 (1) The pipeline company shall make such inspections as are necessary to ensure that any deterioration of a facility that might adversely affect a pipe is detected, and shall inform the facility owner, in writing, of any deterioration that is detected.</p> <p>(2) Where an inspection made pursuant to subsection (1) reveals deterioration of a facility sufficient to warrant removal of the facility, the pipeline company shall inform the Board.</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>9 (2) If an inspection reveals deterioration of a facility that would so impair the safety or security of the pipe as to warrant removal of the facility, the pipeline company must so notify the Board in writing.</p>		No comment.
<p>16 Every person required by these Regulations to keep records shall make the records, and all other materials necessary to verify the information therein, available to officers of the Board and other persons authorized by the Board for that purpose, and shall give the Board and other authorized persons every assistance necessary to inspect the records.</p>	<p>13 Every pipeline company that is required by these Regulations to keep records must make the records, and all other materials necessary to verify the information in those records, available to officers of the Board and other persons authorized by the Board for that purpose and must give the Board and other authorized persons any assistance necessary to inspect the records.</p>		No comment.
	<p>17 Section 11 of the <i>National Energy Board Pipeline Crossing Regulations, Part II</i>, as it read immediately before the day on which these Regulations come into force, continues to apply to any person to which that section applied.</p> <p>18 Section 14 of the <i>National Energy Board Pipeline Crossing Regulations, Part II</i>, as it read immediately before the day on which these Regulations come into force, continues to apply with respect to the permissions referred to in sections 15 and 16 of <i>National Energy Board Pipeline Damage Prevention Regulations – Authorizations</i>.</p>		No comment.