



File OF-Gen-06 FRR
15 February 2019

To: All Pipeline Companies regulated under the *National Energy Board Act*,
and all interested persons

**National Energy Board (NEB or Board)
Draft Pipeline Financial Requirements Guidelines, and
Implementation of Financial Resource Requirements**

Background

The *Pipeline Safety Act* came into force on 19 June 2016. Among other changes, the *Pipeline Safety Act* amended the [National Energy Board Act](#) (NEB Act) by:

- introducing absolute liability to pipeline companies, and setting out for pipeline companies with the capacity to transport greater than 250,000 barrels of oil per day (*major oil pipeline companies*), the absolute liability level of \$1 billion;
- requiring pipeline companies to maintain financial resources equal to their absolute liability level;
- requiring pipeline companies to demonstrate to the Board that they meet their requirement to maintain financial resources; and,
- providing the Board with the ability to order a pipeline company to maintain financial resources in specific types, and amounts.

In February 2018, the Government introduced Bill C-69, *An Act to Enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*. Bill C-69 proposes to repeal the *National Energy Board Act* and replace it with the *Canadian Energy Regulator Act*. The above referenced provisions are included in the *Canadian Energy Regulator Act* and will apply if and when the *Canadian Energy Regulator Act* comes into force.

On 8 June 2018, the [Pipeline Financial Requirements Regulations](#) (Regulations) were passed by Her Excellency the Governor General in Council, on the recommendation of the Minister of Natural Resources, pursuant to subsections 48.12(6), 48.13(7) and 48.14(3) of the NEB Act.

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The Regulations were [published in the Canada Gazette](#), Part II, Volume 152, Number 14 on 11 July 2018. If Bill C-69 came into force, the Regulations would continue, and be deemed to have been made under the *Canadian Energy Regulator Act*.¹

The Regulations set out absolute liability levels for all remaining (non-major oil) NEB-regulated pipeline companies. The Regulations also set out specific financial instruments that the Board may order companies to maintain as well as the portions of financial resources that must be held in a form that is readily accessible to each company.

For the non-major oil pipeline companies, and all gas and other commodity pipeline companies, the Regulations regarding absolute liability limits come into force on 11 July 2019. As of that date, all companies must maintain financial resources equal to their respective absolute liability limits, or a greater amount if determined by the Board.

The Board also requires non-major oil pipeline companies to submit Financial Resource Plans for assessment. The absolute liability classes for all non-major oil pipeline companies are established in the Regulations, but are reiterated for convenience in [Next Steps - Step 4 below](#).

Draft Guidelines

Upon release of the Regulations on 11 July 2018, the Board committed to develop and provide filing guidance for companies. The Board has developed *Draft Pipeline Financial Requirements Guidelines* (the Draft Guidelines), which aim to provide further details on the information that each pipeline company should provide to demonstrate that it meets the financial resource requirements established in the NEB Act and the Regulations.

The Board has set out a process below to gather feedback and comments on the Draft Guidelines. In particular, the Board is seeking comments on:

- Are there any areas where the Draft Guidelines could help to provide further clarity on the financial resources legislation or regulations?
- Are there any areas where the Draft Guidelines are unclear?
- Are there any areas in the Draft Guidelines where definitions, interpretations or expectations should be adjusted?
- Are there any areas where more information would be helpful?

Next Steps

1. Companies and Interested Persons Submit Comments on Draft Guidelines

The Board is seeking comments on the Draft Guidelines, from all companies and interested persons who wish to comment, by 8 March 2019.

¹ See paragraph 44(g) of the *Interpretation Act*.

If you have any comments on the Draft Pipeline Financial Requirements Guidelines, submit them in writing by email, facsimile, or mail to the address listed below. The deadline for providing comments is 8 March 2019. After the close of the comment period, written comments will be posted publically on the Board's website. Please visit the Board's [Acts and Regulations page](#)² for information and updates on the Draft Pipeline Financial Requirements Guidelines.

For assistance with the comment process, contact a Process Advisor by phone at 1-800-899-1265 (toll-free) or by email at pipeline.financialresources@neb-one.gc.ca.

Comments can be submitted to:

Draft Pipeline Financial Requirements Guidelines

Ms. Sheri Young
Secretary of the Board
National Energy Board
Suite 210, 517 Tenth Avenue SW
Calgary, AB T2R 0A8
Facsimile 403-299-5503, or (facsimile toll free) 1-877-288-8803
Email pipeline.financialresources@neb-one.gc.ca

2. Companies to Confirm Absolute Liability Limits

The Regulations set out the criteria for determining a company's absolute liability limit. For oil pipeline companies, absolute liability is based on pipeline Capacity. For gas pipeline companies, capacity is based on Risk Value. The definitions for Capacity and Risk Value are provided in the Draft Guidelines. The Draft Guidelines provide further detail on how to calculate absolute liability limits, in Section 3.

All companies, with the exception of major oil pipeline companies, are required to file with the Board an assessment of their absolute liability limits, along with supporting information, by 8 March 2019. For oil pipelines, this includes their Capacity with supporting calculations. For gas pipelines, this includes their Risk Value with supporting calculations. For other commodity pipelines, this includes the product transported, state of product, and whether product is transported over land or water.

Companies must file their absolute liability limit assessment online using the Board's [e-filing tool](#) (when asked to choose a project name, choose "other"). All filings must refer to **File OF-Gen-06 FRR** and be addressed to:

Ms. Sheri Young
Secretary of the Board
National Energy Board
Suite 210, 517 Tenth Avenue SW
Calgary, AB T2R 0A8
Facsimile 403-292-5503, or (facsimile toll-free) 1-877-288-8803

² <https://www.neb-one.gc.ca/bts/ctr/gnnb/pplfnclrqrmnts/index-eng.html>.

3. The Board will Finalize the Guidelines

After receipt of comments on the Draft Guidelines, the Board intends to issue Final Guidelines by 29 March 2019.

4. Companies to Submit Financial Resources Plans

As noted above, the Regulations come into force on 11 July 2019. Pursuant to subsection 48.13(3) of the NEB Act, the Board directs all companies who have not yet done so to submit a Financial Resources Plan, detailing the financial resources available to respond to a release. The Draft Guidelines provide details on what the Board expects a Financial Resources Plan to include, in Section 4.

Companies must file their Financial Resources Plans online using the Board's [e-filing tool](#) (when asked to choose a project name, choose "other"). All filings must refer to **File OF-Gen-06 FRR** and be addressed to:

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For expediency and efficiency in assessing the Financial Resources Plans, and to enable the Board to assess as many Financial Resources Plans as practical prior to the coming-into-force date of the Regulations, the Board requires companies to submit their Financial Resources Plans according to the following schedule:

Commodity:	Company Absolute Liability Class:	Absolute Liability Limit:	Financial Resources Plan required by:
Oil	Oil Class 2: a company that operates one or more authorized oil pipelines that individually or in the aggregate have the capacity to transport at least 50,000, but fewer than 250,000, barrels of oil per day;	\$300,000,000	16 April 2019
Oil	Oil Class 3: a company that operates one or more authorized oil pipelines that individually or in the aggregate have the capacity to transport at least one, but fewer than 50,000, barrels of oil per day;	\$200,000,000	16 April 2019
Gas	Gas Class 1: a company that operates one or more authorized gas pipelines whose risk value is at least 1,000,000;	\$200,000,000	14 May 2019

Gas	Gas Class 2: a company that operates one or more authorized gas pipelines whose risk value is at least 100,000 but less than 1,000,000;	\$50,000,000	14 May 2019
Gas	Gas Class 3: a company that operates one or more authorized gas pipelines whose risk value is at least 15,000 but less than 100,000;	\$50,000,000	14 May 2019
Gas	Gas Class 4: a company that operates one or more authorized gas pipelines whose risk value is at least one but less than 15,000;	\$10,000,000	14 May 2019
Other commodity	Other Commodity Class 1: a company that operates one or more authorized pipelines that transport a commodity — other than oil, gas, carbon dioxide or water — in a liquid state by land or in a liquid or semi-solid state across a watercourse;	\$10,000,000	11 June 2019
Other commodity	Other Commodity Class 2: a company that operates one or more authorized pipelines that transport a commodity — other than oil, gas, carbon dioxide or water — in a gaseous or semi-solid state by land or in a gaseous state across a watercourse;	\$5,000,000	11 June 2019
CO ₂ or Water	CO ₂ or Water Class: a company that operates one or more authorized pipelines that transport carbon dioxide or water.	\$5,000,000	11 June 2019

All companies are directed to serve a copy of this letter to all shippers and interested parties.

Yours truly,

Originals signed by L. George for

Sheri Young
Secretary of the Board