

Item Reference (Not Prioritized)	Discussion Paper	Issue Description	Business Impact	South Bow's Proposed Solution / Comments for CER Consideration
1	Topic A: Damage Prevention	The definition of 'Ground Disturbance' in the Depth of Cover Section of Regulation requires clarity and consistency. The regulation does not allow for "...excavation such as digging or auguring 30 cm or deeper in the prescribed area to protect people, the pipe, and the environment." This contradicts the definition provided in the Canada Energy Regulator Act, Section 2 for Ground Disturbance part (c) which restricts removal of cover over the pipeline [that is less than the cover provided when the pipeline was constructed]and as per CER definition references the ROW.	It is unclear which activities trigger consent. There is the potential to affect reputation and relationship with landowners.	Establish regulatory clarity with definition of 'ground disturbance'. Reiterate the existing definition in the <i>Canada Energy Regulator Act</i> , Section 2 Ground Disturbance (c) that restricts removal of cover over the pipeline and as per CER definition references the ROW. Current text causes confusion between what is allowed within the ROW and the prescribed area.
2	Topic A: Damage Prevention	Addition of a minimum depth of cover requirement to the OPR. CER definition of 'agricultural land' includes all cropped and harvested lands which are subject to a variety of different cropping methods (deep till vs no till) and also includes grazing land which is generally passive use with little impact from machinery and travel. Treating all agricultural land similarly may lead to unwarranted expenditure and impact to the land user. It is unclear if the minimum depth of cover requirement would be applied retroactively (i.e. applicable to existing assets)?	There will be significant cost implications to meeting minimum depth requirement for existing pipe (if it was retroactive). Legacy regulations were not as stringent as current requirements. Depending on the minimum depth specified, an entire pipeline system could be non-compliant. This would require changing the depth of cover for the entire length of our pipeline. All pipes were built under different depth of cover standards. If minimum depth of cover was applied to all "agricultural land" similarly, operators could be required to mitigate in an area with minimal risk. This poses additional impacts to drainage, topography, stakeholders, etc.	If this is go forward (not retroactive), South Bow could plan for it and accommodate required minimum depth. We encourage matching the risk level to the need for mitigation measures. We require clarity on these proposed changes in this section to effectively respond. South Bow also notes that this proposed item has potential for overlap with CSAZ662.
3	Topic A: Damage Prevention	Section 13 (2) CER Pipeline Damage Prevention Regulations – Authorizations defines agricultural activity as "...the production of crops and the raising of animals and includes tillage, plowing, disking, harrowing and pasturing, but does not include the construction of new buildings or impervious areas or the placement of footings, foundations, pilings or posts, including fence posts." It is not clear how the incident referenced in SA-2022-01 meets this definition. This event involved removal of cover over the pipeline which is not permissible under the agricultural exemption.	Operators need to be able to provide consistent messaging to landowners as to which activities are permissible under the agricultural exemption.	We recommend the CER define 'agricultural activity' and be consistent in use of the definition.
4	Topic C: Emergency Management	Proposal for the Emergency Management program to incorporate sites of cultural and historic significance.	While a good practice this is a large undertaking to acquire this knowledge proactively and keep it current. Complicating factors: 1) Some traditional knowledge info may be kept confidential by Nation, thereby limiting access.	CER could host or provide a standard mapping system/database hosting cultural site information with provisions to maintain confidentiality.

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			<p>2) Locations may change over time. 3) Area affected may be substantial; not enough to only compile this info in close proximity to the asset. 4) Potential for stressing existing Nation capacity. 5) Potential inconsistent or lack of mapping tools or databases to document sites.</p>	<p>CER assistance in encouraging Indigenous Groups to share this information with proponents in early project development would be welcomed.</p> <p>Existing nation capacity issues and the confidential nature of heritage resources could further complicate this proposed change. Capacity funding only helps when there is capacity in community to hire resources.</p> <p>In the event of an incident, South Bow could create a liaison role and strengthen their response side in lieu of preparedness side. Shared liaison would bring all concerns / considerations from all Nations / Non-Indigenous communities forward. This is a more realistic option than compiling and maintaining information proactively.</p>
5	Topic C: Emergency Management	CER is considering clarifying requirements for 'liaison activities' and 'continuing education programs' by deleting those terms and replacing them with new 'Emergency Response Coordination' and 'Emergency Management Information' provisions. 'Emergency Response Coordination' would focus on company interactions with those who may be involved in a response, and 'Emergency Management Information' would focus on those that may be impacted during an emergency.	Changing the terms used doesn't provide clarification. Feedback from Indigenous groups is that they want to be more involved in EM, which aligns with 'Emergency Response Coordination'. This creates more uncertainty because it implies that all Indigenous Groups now need to be added to Liaison programs if their traditional territories are involved. Furthermore, what determines when an Indigenous Group should be involved in a response, and when they fall within the 'Emergency Management Information' realm? Without that clarification, it poses a change to verbiage without defining requirements.	<p>There needs to be clearer regulations about 'who' is notified in the case of a spill or other emergency event.</p> <p>We want to know 'who' but not 'how'. We recommend when clarifying the definitions, please consider industry prefers the freedom to consult and liaise in a company-specific manner.</p>
6	Topic D: Environment	Introduction of incorporating ISO 14001 Environmental Standards. The current OPR already requires a management system. South Bow does not believe there is value in providing this additional management system element.	This will add considerable cost, time and resources to all the work Industry engages in – both Projects and Operations – with questionable additional value.	We recommend the focus should be on meeting the existing and well-defined requirements of the OPR. If a proponent's management system meets the OPR requirements, ISO accreditation is not required. Adding this additional layer would be an unnecessary duplication.
7	Topic D: Environment	Creation of an Environmental Protection Plan (EPP) for Operation and Maintenance Activities. Scalable to size and scope.	This is an unnecessary overlap with the Environment Program that is already in place.	<p>The EPP outlines protection measures during construction and post-construction based on scope, scale and complexity. If a determination is made that there are negligible effects, the purpose of the EPP for Operation and Maintenance Activities comes into question.</p> <p>Protection of the environment is already considered and required in the mandated Environment</p>

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				Program. The applicable tools required to determine effects, negligible or otherwise, reside in the assessment within the proponent's risk management process. Implementation of this proposed item would be duplicative.
8	Topic D: Environmental Protection	The requirement to immediately report conflicts with confirming the "contamination" of an area via analytical testing. Prior to testing, it is premature to say if it 'is' or 'is not' contamination.	This is subjective if some situation or feature is "contamination" prior to analytical testing. This poses unnecessary additional workload (i.e. reporting and application for closure if incident isn't reportable) for both CER and industry.	We recommend switching this proposal to be <i>"Immediately report any contamination that is confirmed by analytical testing."</i>
9	Topic D: Environmental Protection	CER has defined reclamation as returning the land to a 'functional state' in their Information Session. This presents a need for additional clarity to define functional for whom? This differs from the OPR definition which is <i>"restore to a condition similar to the surrounding environment and consistent with the current land use"</i> . Our preference is for the current OPR definition and we suggest this definition needs to be clear and measurable.	The change in definition poses a need for clarity for what is 'functional' or 'consistent with current land use'? These mean different things. This definition will dictate the company approach; the current definition / approach is to reconvert disturbed land to its former use or to an equivalent land capability.	We find the existing OPR definition to be sufficient and wonder what is the context for adding 'functional state' to the existing definition and how will it be measured?
10	Topic D: Environmental Protection	There is a proposal to add climate resiliency. The requirement to identify risks is already in the OPR.	We find this to be an unnecessary addition as there is already a requirement to identify risks.	We recommend the CER retain the current OPR risk identification requirement and avoid potential duplication with existing OPR requirements.
11	Topic F: Management System and Contractor Management	Potential amendments to section 6.1 through 6.6 of the OPR including: 1) rewording and/or restructuring some provisions to improve clarity; 2) adding new management system components in areas that are absent.	It takes a substantial level of effort to design, implement and improve a management system. Consistency and stability of management system expectations is of primary importance for industry adoption, maturity and execution. Management System framework redesign or amendments to specific processes and supporting IS systems is highly disruptive.	We recommend that the CER minimize changes to the existing requirements of the management system. These requirements are well understood and represented in the Protection Programs as well as functional roles and responsibilities for implementation.
12	Topic F: Management Systems and Contractor Management	The proposed creation of additional S. 55 Programs in the OPR including 1. Rights and Interests of Indigenous Peoples, 2. Socio-Economic Effects that are better managed through Section 6 requirements.	Adding two new protection programs will require significant effort (i.e. development, implementation and maintenance) rather than revising Section 6 requirements with a similar outcome.	Framing Indigenous peoples as a program that needs to be managed, while not intended, is misaligned with the structure of "Protection Programs" established in the OPR. For existing Programs, regulatory requirements and supporting industry standards are robust. Proposed new Programs in the absence of similar standards and requirements will make establishment of these potential programs a challenge.

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				<p>Incorporate expectations for rights and interests of Indigenous peoples, management of socio-economic effects into Section 6 for consideration across all pre-existing S .55 programs, including, for example:</p> <ul style="list-style-type: none"> o 6.3 company policy and goals related to maintaining the rights and interests of Indigenous Peoples. <p>We propose the CER outline the Socio-Economic Effects that would need to be considered – set an industry standard (e.g. impacts to human health, human occupancy and resource use, infrastructure and service, navigation and navigation safety, etc.).</p>
13	Topic F: Management Systems and Contractor Management	F9:“Quality assurance program” is used in two contexts in the current OPR - once in relation to the quality assurance program that must be implemented to evaluate the adequacy of the management system in its entirety and specifically for the programs identified in section 55 [see section 6.5(1)(w)] - and again in section 15 whereby the company must develop a quality assurance program for the purpose of ensuring that the pipe and components to be used in the pipeline meet the specifications discussed in section 14 of the OPR.	Use of the same terms to refer to different expectations presents a confusing reference.	We recommend the use of different wording (e.g., be more specific e.g., ‘manufacturing and construction inspection’ as opposed to using generic terms such as ‘quality management program’).
14	Topic G: Pipeline Integrity	Requirement for secondary containment capable of containing ignited spills such that the fire does not expose other tanks or adjoining property to ignition. There is clarification missing as to whether this would apply to shared secondary containment or be retroactive.	<p>If applicable to shared secondary containment, select current containment designs may no longer be used. Operators would have to anticipate significant additional cost to design secondary containment areas to meet revised fire suppression requirements.</p> <p>If retroactive, significant modifications to current infrastructure would be required. It is impractical to retro-fit existing facilities to meet these requirements without getting extremely creative on wall designs as tank locations are fixed.</p> <p>A substantially more robust fire system would be required.</p>	<p>We require clarity on specific changes to be made to effectively comment on proposed changes.</p> <p>Additional clarity needed that it does / does not apply to shared secondary containment and is / is not retroactive.</p> <p>We see a potential overlap with <i>Fire Code</i> and <i>Fire Technical Regulations</i>.</p>
15	Topic G: Pipeline Integrity	Requirement to demonstrate infrastructure (e.g. pipe, valves, etc.) traceability with a potential expectation to have operators submit everything up front.	Not all of the information is available for submission up front.	Consider requirement to compile information in-house and provide it in the event of an audit. No need to submit proactively.
16	Topic G: Pipeline Integrity	Storage facilities designed and constructed to have fire detection and fire protection. Typically fire detection throughout but only fire protection on the	Would require a substantially more robust fire system at substantial cost.	We see a potential overlap with <i>Fire Code</i> and <i>Fire Technical Regulations</i> .

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		storage tanks (other than local extinguishers within buildings). If fire protection is required in all areas of the facility without limit and there is no allowance for operators to accept the risk of fire, it would apply to entire process area which is not typically protected.		
17	Topic H: Reporting Harm	Required timelines for reporting on 'serious injuries' can be challenging as it can take >3 hours to receive medical confirmation that an injury meets the 'serious injury' definition.	Accurate reporting is challenging within the allotted regulatory time frame.	Revise requirements to prioritize accuracy (i.e. allow for receipt of medical diagnosis prior to reporting) over timeliness (i.e. anticipating diagnosis to meet reporting deadline). We recommend the development of supporting tool to aid in assessment and reporting (decision tree).
18	Topic H: Reporting Harm	Lowering release reporting thresholds.	The current reporting thresholds are considered adequate. The proposed change would result in increased reporting and administrative burden for small events.	We recommend maintaining current release reporting thresholds.
19	Topic H: Reporting Harm	Reporting of sites of Historic and Cultural Significance to the CER in addition to provincial regulatory bodies.	If a cultural heritage site is damaged or if workers encounter a chance find, would need to be reported to the CER in addition to the provincial regulatory body and Indigenous Group.	This poses the potential for overlap with existing provincial regulatory bodies with dual reporting.
20	Topic H: Reporting Harm	Requirement to report on high-potential near misses.	Current reporting requirements are considered adequate. The proposed change could increase reporting workload (for both industry and the CER) and decrease ability to meet reporting deadlines. Also potential to negatively impact safety culture (i.e. potentially impact reporting behaviour internally if near misses / near hits begin to hold more gravity externally).	We require clarity on definition of HIPO Near Miss and reporting timelines to effectively comment on proposed changes. Consider collecting this data and trends via a third party so data can remain anonymous.
21	Topic H: Reporting Harm	Reporting on security incidents that result in the 'Loss of Operational View and Control of a Pipeline'.	This will increase reporting workload significantly. Despite being intended for cybersecurity events, weather events, third party impacts and cable theft all result in 'Loss of Operational View', thereby potentially leading to unnecessary reporting for both industry and the CER.	Could result in a significant increase in workload for CER personnel as a result of the frequency of these occurrences. May consider distinguishing between of 'time of occurrence' and 'time of discovery'. If clock starts at the 'time of discovery' rather than 'time of occurrence', will give operators time to identify the source of the 'loss of view or control'. In this way, CER will spend less time dealing with non-incidents. Potential unintended security impact of confidentiality concerns with respect to public release of cyber event details.
22	Topic I: OPR – Rights and Interests of	Inclusion of a management system requirement to implement a process to identify Indigenous laws and	Indigenous law has not yet been defined; lack of clarity will lead to inconsistencies between operators and projects.	We believe there is a need to define laws and policies – to clarify what is meant and what is included.

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	Indigenous Peoples	policies (where made available to operators), and how they are addressed in protection programs.	Indigenous Protocols / Practices are community-specific and it is likely that numerous communities will be located in proximity to linear projects. This will lead to an increased resource draw for both industry and Nations.	Existing nation capacity issues could further complicate this proposed change. Provide direction on who to engage with to avoid discrepancies from project to project and company to company.
23	Topic J: Safety	Contemplating changing the definition 'construction' to expand the applicability of associated safety requirements to pre-construction activities.	Has potential impact to contracts and benefit agreements with stakeholders and / or government agencies. This may create unintended consequences as the word 'construction' is widely used to negotiate contracts and trigger benefit agreements with stakeholders and / or government agencies. The normally understood definition is that construction commences with ground disturbance.	Consider the wide-reaching impacts of this change prior to adoption / implementation. We recommend no change to the current definition.
24	Topic J: Safety	Consideration for "adding requirements related to detection and warning systems for hazardous atmospheres".	It is unclear what these suggested requirements would be. If considering the far end of the scale - having to change out and/or add additional detection equipment should the new requirements differ from current configuration would represent a significant business impact.	We request clarification on what these 'requirements' would be while remaining consistent with our recommendation to maintain a risk-based approach.
25	Topic J: Safety	Opportunity to influence change in relation to definition of contractor (and prime). Provide clarity and differentiate between obligations as they relate to site owner, contractor, and prime contractor obligations.	This requires a clear understanding of legal responsibilities.	We recommend adopting the definition of contractor similar to Alberta OHS Act: <i>Contractor means a person, partnership or group of persons who, through a contract, and agreement or ownership, directs the activities of one or more employees involved in work at a worksite.</i> We recommend the consideration to adopt Prime Contractor language and obligations similar to the AB OHS Act - Section 3: Prime Contractor.
26	Topic K: Filing Manual – Environmental and Socio-Economic Assessment	Indigenous communities have provided feedback stating that "no net loss is no longer a valid objective given the state of cumulative effects. The guidance needs to stress the need for a net gain associated with mitigations and offsetting". 'Proposed enhancement measures to improve positive effects' and 'offsets'. Unlike emissions, offsetting approaches for nature are very complex and inconsistently managed by existing agencies.	Baseline and impacts are not easily quantifiable and will require an agreed upon methodology based on the individual value component.	We recommend a step that defines what mechanism will be implemented to evaluate and measure different environmental and socio-economic assessments and outcomes, such as splitting data sets.

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		Baseline approaches are different in and amongst Indigenous communities, landowners, and industry.		
27	Topic K: Filing Manual – Environmental and Socio-Economic Assessment	<p>Proposal to split the Environmental and Socio-Economic Assessment section:</p> <p>1) Splitting the Environmental and Socio-Economic Assessment (ESA) into i) amended ESA and ii) rights and interests of Indigenous Peoples;</p> <p>2) Consolidating subtopics such as engagement results, TLRU, climate change resiliency.</p>	<p>The introduction of an Indigenous-specific assessment is a separate data set.</p> <p>There are projects under the Impact Assessment Act (IAA) that are doing this. This will likely add significant effort, resources, scope, cost and time to a) file an ESA, b) assign controls and barriers required to mitigate additional effects (outcomes from the significance determination), and c) oversee construction and associated contracts (i.e., environmental inspection).</p>	<p>If the ESA is split into two separate reports, what effects assessment process will be applied? If there are multiple differing conclusions, how will these be evaluated using the current methodology and framework?</p> <p>Alternatively, specific interests can be captured in engagement summaries or logs. Traditional Land Use (TLU) tables are already included to capture specific mitigation of impacts.</p> <p>The CER clarified at the workshop that the creation of a separate dataset was not the intention. Instead, they were suggesting that the Guidance in the Filing Manual be split into Indigenous and Non-Indigenous. South Bow has no concerns with the layout of the filing guidance so long as proponents are not required to file two separate ESAs. Two separate ESAs would result in unnecessary duplicative reports, and be administratively burdensome.</p> <p>The topic paper noted in several areas that the CER seeks to amend the structure and layout of the ESA to include a section regarding the ‘Rights and Interests of Indigenous Peoples’. It is South Bow’s understanding that the rights of Indigenous Peoples is a legal determination that the Crown is responsible for, and therefore proponents may not be comfortable providing a rights determination as part of its project application. South Bow recommends that the amendments to the ESA keep to proponents’ assessment of its project’s impact on the ‘interests’ of Indigenous Peoples and not a project’s impact on ‘rights’.</p>
28	Topic K: Filing Manual – Env and ESA	Document and monitor the usage of socio-economic mitigation and enhancement measures through construction and into operations.	Socio-economic mitigation / offsets and outcomes are not as easy to measure as environmental mitigations / offsets.	<p>There are existing tools to record commitments; these can be captured in a commitments table rather than creating a new filing requirement.</p> <p>Consider outlining Socio-Economic Effects that would need to be considered for consistency – set industry standard (e.g. impacts to human health, human</p>

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				occupancy and resource use, infrastructure and service, navigation and navigation safety, etc.).
29	Topic L: Filing Manual - Lands	Potential increased filing requirements for applicants to provide details on the agreements used for land activities, including providing a copy of the form of agreement used to permit access to lands for Traditional Land Use (TLU) and Traditional Ecological Knowledge (TEK) studies.	Some private landowners may refuse access due to concerns re: TLU and TEK studies.	We wonder if there is additional value anticipated in the sharing of this level of detail and encourage an approach that still reflects a performance-based outcome.
30	Topic L: Filing Manual - Land	Current requirements are to provide a <u>general description</u> of the location of the lands and the nature and relative proportions of land ownership in <i>Section A.4.1 - Lands Information</i> . Potential new requirements are to provide <u>clear and detailed list</u> of lands obtained for permanent, temporary and/or crossing uses.	Potential requirements to: - Provide more detailed descriptions of lands that support Environmental and Socio-economics Assessment (ESA) studies while incorporating Traditional Land Use (TLU) and Traditional Ecological Knowledge (TEK); and - Provide more detailed description of project lands used by Indigenous Peoples or communities for traditional purposes.	Applicants may not have determined or acquired all crossings at the time of application. We encourage an approach that consistently reflects a performance-based outcome.
31	Topic L: Filing Manual - Land	Current requirements are to provide a general description of the land areas and type of land rights proposed to be acquired in <i>Section A.4.1 - Lands Information</i> . Potential new requirements are to provide details on the land rights obtained for permanent, temporary or crossing uses.	Potential requirements to: - Provide estimated duration for each type of temporary workspace; and - Provide information regarding crossings.	Applicants may not have determined or acquired all crossings at the time of application. We encourage an approach that consistently reflects a performance-based outcome.
32	Topic L: Filing Manual - Land	Potential new requirements are to describe the land acquisition process, including the processes to be used in the event that land acquisition agreements cannot be obtained.	Current requirements are to provide a general description of the land acquisition process, timing and status of acquisition, status of service of S.322(1) notices served, and timing of service of remaining notices.	Land acquisition process should be kept at a broad overview level if included as a Filing Manual requirement. We encourage an approach that consistently reflects a performance-based outcome.
33	Topic L: Filing Manual - Land	Potential new filing requirements to improve CER's understanding of a company's compensation approach, including: - compensation method; - principles used to structure compensation matters; and - best practices and approaches.	Potential requirement to develop a company standard and / or project-specific <i>Compensation Principles</i> compensation methodology, principles, best practices, and approaches, suitable for publication.	Compensation methodology, principles, best practices, and approaches should be kept at a broad overview level if included as a Filing Manual requirement. We encourage an approach that consistently reflects a performance-based outcome.