

National Energy Board



Office national de l'énergie

Electricity Exports

Landowners' Guide

INFORMATION SERIES

**Regulation of  
Commodity Pipelines**

Frontier Information Office

Tolls & Tariffs

Public Hearings

Pipeline Safety

Environmental Protection  
International Power Lines

Library and Information Services  
Import and export of natural gas

# **Regulation of Commodity Pipelines**

© Her Majesty the Queen in Right of Canada 2004  
as represented by the National Energy Board

Cat. No. NE12-3/14-2004E  
ISBN 0-662-37760-5

This report is published separately in both official  
languages.

**Copies are available on request from:**

National Energy Board  
Publications Office  
444 Seventh Avenue SW  
Calgary, Alberta T2P 0X8  
(403) 299-3562  
1-800-899-1265

**For pick-up at the NEB office:**

Library  
Ground Floor

Internet: [www.neb-one.gc.ca](http://www.neb-one.gc.ca)

Printed in Canada



© Sa Majesté la Reine du Chef du Canada 2004 représentée  
par l'Office national de l'énergie

N° de cat. NE12-3/14-2004F  
ISBN 0-662-77488-4

Ce rapport est publié séparément dans les deux langues  
officielles.

**Demandes d'exemplaires :**

Office national de l'énergie  
Bureau des publications  
444, Septième Avenue S.-O.  
Calgary (Alberta) T2P 0X8  
(403) 299-3562  
1-800-899-1265

**Des exemplaires sont également disponibles à la  
bibliothèque de l'Office (rez-de-chaussée).**

Internet : [www.neb-one.gc.ca](http://www.neb-one.gc.ca)

Imprimé au Canada

# Introduction

---

The National Energy Board (the Board) is an independent federal regulatory tribunal that was established in 1959. It reports to Parliament through the Minister of Natural Resources Canada. The Board's regulatory powers under the *National Energy Board Act* (the NEB Act) include the granting of authorizations for: the construction and operation of interprovincial and international pipelines and international power lines; the setting of tolls and tariffs for oil and gas pipelines under its jurisdiction; the export of oil, natural gas and electricity; and the import of natural gas. The Board also has regulatory powers under the *Canada Oil and Gas Operations Act* and certain provisions of the *Canadian Petroleum Resources Act*.

For many years, the Board's jurisdiction had been limited to pipelines transporting oil or gas. However, as a result of the *Canada Transportation Act* which came into force on 1 July 1996, jurisdiction over pipelines transporting commodities other than oil and gas (commodity pipelines) was transferred from the National Transportation Agency (now the Canadian Transportation Agency) to the Board.

## Overview of Regulatory Requirements

### Base Legislation

To effect the assumption of jurisdiction, the definition of "pipeline" in the NEB Act has been broadened to include pipelines transporting commodities other than oil or gas but excluding municipal sewer and water lines. As a result, commodity pipelines now legally fall within the purview of the Board's regulatory oversight.

Part III of the NEB Act deals with the construction and operation of pipelines. Specific areas of interest to commodity pipelines are outlined briefly below.

### **Facilities Applications**

An application to the Board is required for approval to construct, modify or expand a pipeline or associated facility. The Board is required by legislation to conduct a public hearing in respect of a pipeline exceeding 40 kilometers in length, but may at its discretion conduct a hearing into a pipeline facilities application of lesser length. Where there is no public hearing, the Board makes its decisions on the basis of written information, which may include submissions from interested parties.

With respect to applications and hearing procedures for commodity pipelines, the Board's *Rules of Practice and Procedure* must be followed. As well, the Board's *Filing Manual* should be followed as applicable in the preparation of an application.

### **Technical Issues**

The *Onshore Pipeline Regulations, 1999* (OPR-99) do not apply to commodity pipelines. The OPR-99 defines "onshore pipeline or pipeline" as "a pipeline intended for the transmission of hydrocarbons that is not in an offshore area". This definition excludes pipelines that transmit anything other than hydrocarbons.

However, the Board still has the legislative ability to order any commodity pipeline company to "repair, reconstruct or alter" any part of its pipeline in order to promote its safe operation. Outstanding technical issues will be dealt with on a case-by-case basis.

### **Crossings**

Because of the broadened definition of "pipeline" in the NEB Act, the Pipeline Crossing Regulations should be construed to apply to commodity pipelines. Part I of the Pipeline Crossing Regulations sets out the responsibilities of the excavator of facility owners, while Part II sets out the responsibilities of the pipeline company to the public and the Board. Two other Board publications, *Excavation and Construction Near*

*Pipelines and Living and Working Near Pipelines*, provide further guidance in these areas.

### **Environmental Issues**

In the context of the *Canadian Environmental Assessment Act* (CEAA), commodity pipelines are captured in the *Law List Regulations* with the broadening of the definition of "pipeline". As such, the Board is required to perform an environmental screening of a commodity pipeline project.

Generally speaking, environmental issues relating to the physical construction of a cross-country commodity pipeline project can be expected to be quite similar to those for an oil or gas pipeline project. On the other hand, the issues relating to the operational phase of the project may differ. For instance, the complexity of the spill contingency plan will depend wholly on the nature of the commodity to be transported.

### **Incident Reporting**

Commodity Pipelines fall within the ambit of the *Canadian Transportation Accident Investigation and Safety Board Act* and the *Transportation Safety Board Regulations*. As such, the Transportation Safety Board's (TSB) incident reporting requirements have to be met.

Given the exemption of commodity pipelines from the *Onshore Pipeline Regulations*, owner companies are not required to file incident reports directly with the Board. The Board has, however, made an arrangement through a Memorandum of Understanding (MOU) whereby it would be copied by the TSB on such reports.

### **Occupational Safety and Health**

Federally regulated commodity pipelines come within the ambit of the *Canada Labour Code (Part II)* and the *Canada Occupational Safety and Health Regulations* made thereunder. At present, Human Resources Development Canada (HRDC, formerly Labour Canada) is responsible for administering these requirements for commodity pipelines. The Board wishes to note, however, that it currently has an MOU in place with HRDC whereby occupational health and safety inspections for oil and gas pipelines are conducted by Board

inspectors, and that the scope of this MOU may be broadened at some point in the future to include commodity pipelines.

### **Traffic, Tolls and Tariffs**

Part IV of the NEB Act deals with traffic, tolls and tariffs for pipelines. With respect to Part IV matters, all of the existing commodity pipelines that have been transferred to the Board's jurisdiction have been designated as Group 2 pipelines because of their "shipper-owner" status. As outlined in the Board's *Memorandum of Guidance – Regulation of Group 2 Companies* dated 6 December 1995, financial regulation of Group 2 companies is normally carried out on a complaint basis. In the absence of a complaint on traffic, tolls or tariff issues, the Board does not normally undertake a detailed examination of the company's tolls. The Part IV regulatory treatment of future commodity pipelines will be decided on a case-by-case basis.

### **Exports and Imports**

The provisions of the NEB Act dealing with exports and imports (Part VI) apply specifically to oil and gas and have no bearing on other commodities.

## **Access to NEB publications and information**

### **The NEB Web site ([www.neb-one.gc.ca](http://www.neb-one.gc.ca))**

Many of the NEB's publications are available on our Web site. Check the publications section of the site for a current list.

### **Upon request**

If you do not have access to the Internet, copies of specific NEB publications can be ordered from our publications coordinator. If you need to receive certain publications in paper format on a regular basis, ask to be added to a mailing list. Mailing lists have been created to distribute the following information:

- All NEB publications
- Oil and gas matters
- Electrical matters
- Annual reports only
- Environmental matters
- Energy Market Assessments
- Canadian energy supply and demand

To receive a publication or to be placed on a mailing list, forward your request to the NEB publications coordinator:

Phone: (403) 299-3562 (In Calgary)

1-800-899-1265 (toll-free)

Fax: (403) 292-5576

E-mail: [publications@neb-one.gc.ca](mailto:publications@neb-one.gc.ca)

### **OR send your request to:**

Publications Coordinator

National Energy Board

444 Seventh Avenue SW

Calgary, Alberta, Canada T2P 0X8

Please specify whether you would like to receive the information in English or French.

