



# National Energy Board



For the  
period ending  
March 31, 1997



Improved Reporting to Parliament —  
Pilot Document

Canada

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## Foreword

On April 24, 1997, the House of Commons passed a motion dividing what was known as the *Part III of the Estimates* document for each department or agency into two documents, a *Report on Plans and Priorities* and a *Departmental Performance Report*. It also required 78 departments and agencies to table these reports on a pilot basis.

This decision grew out of work by Treasury Board Secretariat and 16 pilot departments to fulfil the government's commitments to improve the expenditure management information provided to Parliament and to modernize the preparation of this information. These undertakings, aimed at sharpening the focus on results and increasing the transparency of information provided to Parliament, are part of a broader initiative known as "Getting Government Right".

This *Departmental Performance Report* responds to the government's commitments and reflects the goals set by Parliament to improve accountability for results. It covers the period ending March 31, 1997 and reports performance against the plans presented in the department's *Part III of the Main Estimates* for 1996-97.

Accounting and managing for results will involve sustained work across government. Fulfilling the various requirements of results-based management – specifying expected program outcomes, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and report on achievements – is a building block process. Government programs operate in continually changing environments. With the increase in partnering, third party delivery of services and other alliances, challenges of attribution in reporting results will have to be addressed. The performance reports and their preparation must be monitored to make sure that they remain credible and useful.

This report represents one more step in this continuing process. The government intends to refine and develop both managing for results and the reporting of the results. The refinement will come from the experience acquired over the next few years and as users make their information needs more precisely known. For example, the capacity to report results against costs is limited at this time; but doing this remains a goal.

This report is accessible electronically from the Treasury Board Secretariat Internet site:  
<http://www.tbs-sct.gc.ca/tb/key.html>

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# **National Energy Board**

## **Performance Report**

**For the  
period ending  
March 31, 1997**

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R. Priddle  
Chairman  
National Energy Board

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Ralph Goodale  
Minister  
Natural Resources Canada

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## SECTION I: CHAIRMAN'S SUMMARY MESSAGE

The Board's corporate purpose is to make decisions which are fair, objective and respected.

In my view, this purpose was achieved in the 1996-97 fiscal year, as the Board maintained the quality of its decision-taking in dealing with an unusually heavy workload comprising hundreds of regulatory applications, inquiries, studies and reports.

This performance, detailed in the following report, is reflected in:

- the new ways of doing business which we have developed in recent years: for example, in 1996, over 90% of the revenues of NEB-regulated pipelines were based on multi-year settlements negotiated amongst pipeline stakeholders in accordance with the Board's guidelines (compared to some 25% in 1995). Settlements minimize and, in many cases, eliminate the need for costly toll and tariff hearings and provide a sharing of cost savings between pipeline companies and their shippers;
- the recommendations made by the Board in 1996 following an intensive inquiry into a pipeline public safety issue, Stress Corrosion Cracking, which resulted in increased public safety on the country's oil and gas pipelines;
- the approval by the Board of the Express Pipeline, the first large new oil pipeline out of Western Canada in 45 years and the first to be examined under the recent *Canadian Environmental Assessment Act*;
- the very small proportion of our regulatory decisions that have been overturned on appeal during the last five years;
- the high degree of compliance with NEB decisions and regulations on the part of the regulated industry; and
- the cooperation we have achieved with other agencies, including agencies in other jurisdictions, with a view to minimizing duplication and streamlining energy regulated processes.

In 1996, the Board launched a profound business transformation exercise, a part of which resulted in a completely reorganized NEB by 1 April 1997. It has now evolved into a team-based participative organization capable of responding to the changing regulatory environment and paving the way for a viable performance management framework.

I wish to acknowledge the sterling contribution of the NEB staff and my fellow Board Members in terms of their dedication to excellence and their contribution in providing efficient and effective energy regulation.

R. Priddle

## **SECTION II: DEPARTMENTAL OVERVIEW**

### **A.1 Mandate, Roles and Responsibilities**

The main regulatory responsibilities of the National Energy Board (the "Board" or the "NEB") are defined in the *National Energy Board Act* ("NEB Act") and the *Canada Oil and Gas Operations Act* ("COGO Act"). Its primary areas of responsibility pursuant to the NEB Act are:

- i) approval of the construction, operation and abandonment of interprovincial and international oil, gas and commodity pipelines and international and designated interprovincial power lines;
- ii) approval of tolls and tariffs for oil, gas and commodity pipelines;
- iii) approval of the export of oil, gas and electricity, and the import of natural gas;
- iv) ensuring the safe operation of pipeline facilities;
- v) environmental protection during the construction, operation, maintenance and abandonment of pipelines and power lines; and
- vi) provision of advice to the Minister of Natural Resources Canada (the "Minister") on matters pertaining to the Board's regulatory expertise, upon request from the Minister.

Under the terms of the COGO Act and certain provisions of the *Canada Petroleum Resources Act* ("CPR Act"), the Board regulates oil and gas exploration and production activities on Canada's frontier lands that are not subject to federal/provincial accords. This includes the safety, environmental and resource conservation aspects of these activities.

A more complete description of the Board's regulatory responsibilities and the relevant legislation is contained in the Board's Annual Report available in hard copy from the library or the NEB website: [www.neb.gc.ca](http://www.neb.gc.ca).

#### ***i) Objectives***

Our purpose is to make decisions that are fair, objective and respected. We achieve our purpose by regulating those matters which are under our jurisdiction, in the Canadian public interest.

#### ***ii) Strategic Priorities***

As established in our Plans and Priorities document tabled in Parliament on 18 February 1997, the Board's strategic priorities are:

- maintain and enhance the quality and timeliness of our regulatory services;
- increase our cost effectiveness;
- transform our organization to achieve a results-focused, team-based participative environment; and
- improve our ability to attract, develop and retain highly skilled staff.

These priorities are also applicable for the period ending March 1997.

## **A.2 Organization Composition and Resource Plans**

The NEB Act provides for up to nine Board Members. For most of 1996-97 there were six members on strength.

The Chairman is the NEB's Chief Executive Officer, and the Executive Director is the Board's senior staff member and Chief Operating Officer. The entire staff complement of 297, as of March 1997, is located in Calgary.

### ***i) Transformation***

In 1996-97, the Board's organizational structure consisted of ten branches, each of which represented a core competence such as economics, environment and engineering. This is shown in Figure 1. Starting in 1995, the Board undertook an extensive review of its processes and, through staff initiatives, a series of recommendations were made identifying a new vision for the Board. In keeping with this vision, the Board announced in October 1996, a major reorganization which became effective 1 April 1997. Replacing the organizational structure built on ten functional branches, the Board is now organized into five Business Units reflecting its major areas of activities, namely, Applications, Operations, Commodities, Information Management and Corporate Services as shown in Figure 2.

The Executive Director and the Business Leader of each business unit make up the Executive Team which is accountable to the Chairman.

The roles and responsibilities of the new interdependent business units are summarized as follows:

#### **Applications**

The Applications Business Unit is responsible for processing all regulatory applications submitted under the NEB Act, except applications for the export of electricity or the construction of international power lines. Staff from the Applications Unit are responsible for financial surveillance and financial audits. This unit is also responsible for providing advice to Board Members with respect to such applications.

#### **Operations**

The Operations Business Unit is responsible for all safety and environmental matters pertaining to facilities under the NEB Act, COGO Act and the CPR Act. As such, it is responsible for developing technical regulations, conducting safety and environmental audits, accident investigations and reviewing emergency response procedures. The Operations Unit is also responsible for regulating the exploration and production of hydrocarbon resources north of the 60th parallel, pursuant to the COGO Act and the CPR Act.

#### **Commodities**

The Commodities Business Unit is responsible for the development of guidelines and regulations relating to energy exports as mandated by Part VI of the NEB Act; commodity market surveillance; statutorily required statistical and other reports; and processing applications relative to electricity exports and international power lines.



## **Information Management**

The Information Management Business Unit is responsible for providing the services of information production, exchange and storage. This includes the development and maintenance of appropriate informatics systems, managing the flow of communications between the Board and its public, and managing the regulatory information of this Court of Record.

## **Corporate Services**

The Corporate Services Business Unit is responsible for providing those services necessary to assist Board Members, the Executive Team and Business Units in managing our human, material and financial resources.

## **General Counsel & Professional Leadership Team**

The General Counsel provides legal services for both regulatory and management purposes; while the Professional Leadership Team has the responsibility for maintaining and enhancing the technical expertise and experience available within the Board.

**Figure 1**  
**Organization Chart as at 31 March 1997**

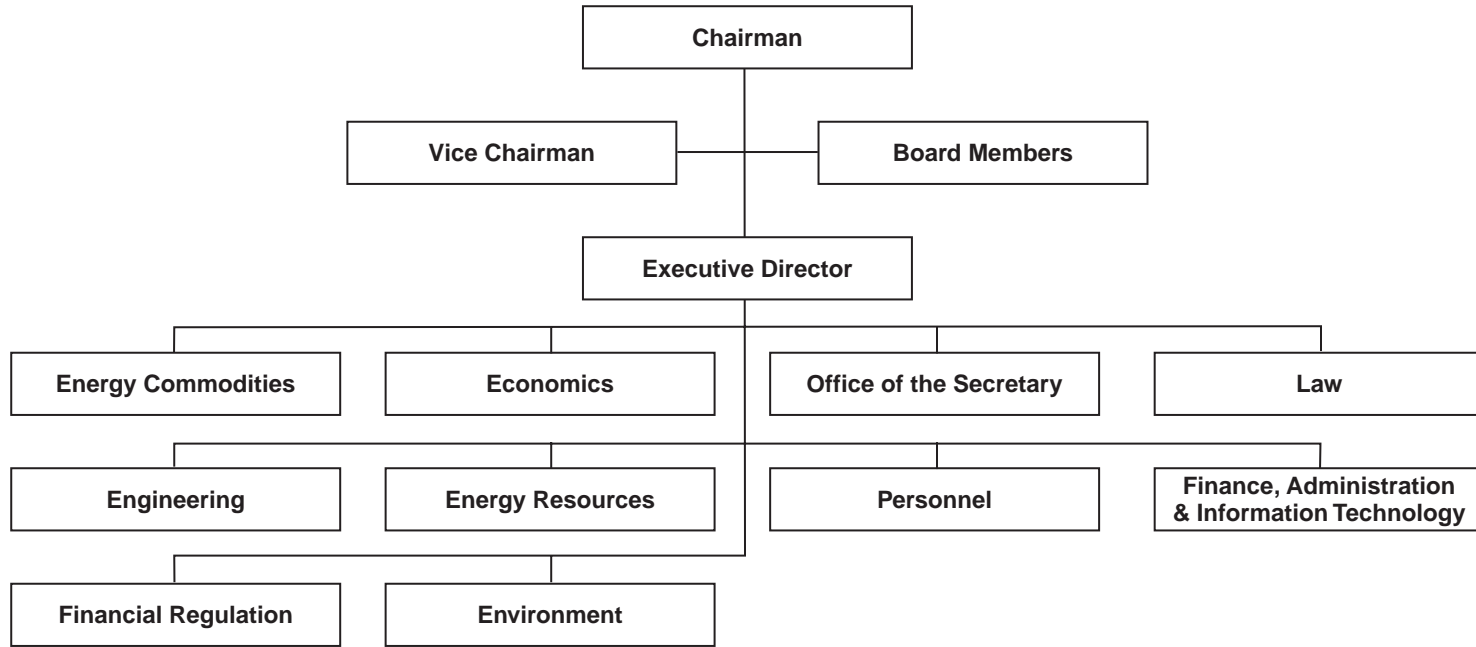
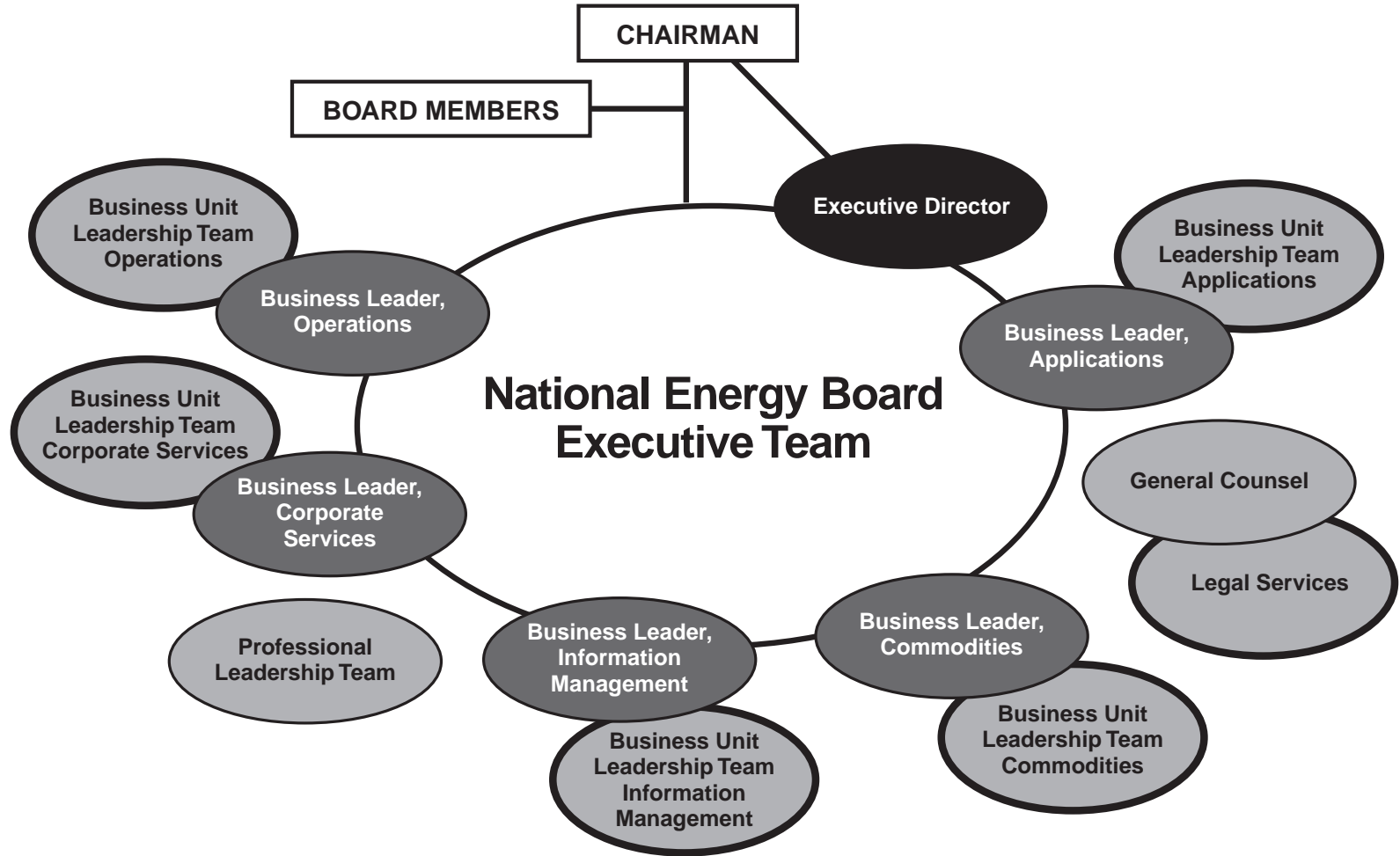


Figure 2  
Organization Chart effective 1 April 1997



## SECTION III: DEPARTMENTAL PERFORMANCE

The Board's major accomplishments for the period ending March 1997 were:

- the new ways of doing business which we have developed in recent years: for example, in 1996, over 90% of the revenues of NEB-regulated pipelines were based on multi-year settlements negotiated amongst pipeline stakeholders in accordance with the Board's guidelines (compared to some 25% in 1995). Settlements have resulted in minimizing and in most cases, eliminated the need for costly toll and tariff hearings and have provided a sharing of cost savings amongst pipeline companies and their shippers;
- the recommendations made by the Board in 1996 following an intensive inquiry into pipeline public safety issues such as Stress Corrosion Cracking, which resulted in increased public safety on the country's oil and gas pipelines;
- the approval by the Board of the Express Pipeline, the first large new oil pipeline out of Western Canada in 45 years and the first to be approved under the recent *Canadian Environmental Assessment Act* (CEA Act);
- the very small proportion of our regulatory decisions that have been overturned on appeal during the last five years out of over 3500 applications processed;
- the high degree of compliance with NEB decisions and regulations on the part of the NEB-regulated industry; and
- the cooperation we have achieved with other agencies, including agencies in other jurisdictions, with a view to minimizing duplication and streamlining energy regulated processes.

### A. Performance Expectations

#### A.1 Financial Information

Figures 3, 4, 5 and 12 present financial data for the Board in 1996-97.

##### i) Cost Efficiency and Effectiveness Achieved

The Board strives continuously to find ways to streamline its processes in order to improve on the efficiency and effectiveness of our operations. Expenditures on hearing-related activities comprise over 60% of the Board's operational budget. In recent years, these streamlining initiatives have enabled the Board to handle an increasingly heavy regulatory workload with a generally declining level of expenditure as depicted below. In the years ahead, we will be challenged to find new ways to achieve continuous improvement, taking account of the expected increase in oil and gas industry activity, while working with limited human and financial resources.

#### Oral and Written Hearings

	Total	Oral	Written	Actual Spending \$	Cost Recovery <sup>1</sup> (\$ million)
1996-97	22	15	7	26.9	24.5
1995-96	18	14	4	25.9	23.5
1994-95	14	12	2	27.4	22.0
1993-94	9	8	1	28.4	30.7 <sup>1</sup>

<sup>1</sup> The Board recovers about 85% of its costs from the industry it regulates. Costs recovered are based on planned expenditures which are adjusted for prior period actual expenses and non-recoverable costs.

**Figure 3**  
**Comparison of Total Planned Spending to Actual Expenditures, 1996-97 by Business Line**  
(\$ millions)

	FTE	Operating <sup>1</sup>	Capital	Total Gross Expenditures	Less: Revenue Credited to the Vote	Total Net Expenditures
Energy Regulation and Advice	300	30.1		30.1		30.1
	292	26.8		26.8		26.8
Totals	300	30.1		30.1		30.1
	292	26.8		26.8		26.8
Other Revenues and Expenditures						
Revenue credited to the Consolidated Revenue Fund						(24.0)
						(24.6)
Cost of services provided by other departments						3.3
						3.3
<b>Net Cost of the Program</b>						<b>9.4</b>
						<b>5.5</b>

Note: Shaded numbers denote actual expenditures/revenues in 1996-97.

<sup>1</sup> Operating includes contributions to employee benefit plans.

**Figure 4**  
**Comparison of Total Planned Spending to Actual Expenditures,**  
**1996-97 by Service Line/ Sub-activity**  
(\$ millions)

Sub-activity	Operating <sup>1</sup>	Total Gross Expenditures	Less: Revenue Credited to the Vote	Total Net Expenditures
Program Management and Services	8.8	8.8		8.8
	7.0	7.0		7.0
Advice and Inquiry	4.5	4.5		4.5
	0.7	0.7		0.7
Facilities	5.8	5.8		5.8
	8.8	8.8		8.8
Traffic, Tolls, and Tariffs	3.5	3.5		3.5
	2.0	2.0		2.0
Energy Trade	3.3	3.3		3.3
	4.4	4.4		4.4
Frontier	4.1	4.1		4.1
	3.9	3.9		3.9
Other	0.1	0.1		0.1
	–	–		–
Totals	30.1	30.1		30.1
	26.8	26.8		26.8
Other Revenues and Expenditures				
Revenue credited to the Consolidated Revenue Fund				(24.0)
				(24.6)
Cost of services provided by other departments				3.3
				3.3
Net Cost of the Program				9.4
				5.5

Note: Shaded numbers denote actual expenditures/revenues in 1996-97.

<sup>1</sup> Operating includes contributions to employee benefit plans.

**Figure 5**  
**Departmental Actual Spending by Business Line**  
(\$ millions)

	<b>Actual 1993-94</b>	<b>Actual 1994-95</b>	<b>Actual 1995-96</b>	<b>Total Planned 1996-97</b>	<b>Actual 1996-97</b>
Energy Regulation and Advice	28.4	27.4	25.9	30.1	26.8
Totals	28.4	27.4	25.9	30.1	26.8

## A.2 Summary of Key Performance Expectations

<b>NATIONAL ENERGY BOARD</b>	
<b>provides Canadians with:</b>	<b>demonstrated by:</b>
Fair, objective and respected energy regulatory decisions.	<ul style="list-style-type: none"> <li>• the proportion of our decisions that are successfully appealed; and</li> <li>• recognition, nationally and internationally, as a model independent energy regulatory tribunal.</li> </ul>
Effective public and environmental safety regulation of pipeline facilities and the development of hydrocarbons on Frontier lands north of the 60th parallel.	<ul style="list-style-type: none"> <li>• the rate of incidents on pipeline facilities regulated by the Board; and</li> <li>• the compliance rate by the companies we regulate.</li> </ul>
A responsive one-stop organization for world class advice, studies, research and information on energy matters.	<ul style="list-style-type: none"> <li>• the peer review by counterpart energy regulators of our Supply and Demand report, energy market assessment and other reports we produce; and</li> <li>• the cooperation with other jurisdictions and agencies to provide harmonized and streamlined energy regulatory services.</li> </ul>

## B. Performance Accomplishments

### B.1 Fair, Objective and Respected Decisions

#### i) Proportion of Decisions Appealed and Reviewed

As a Court of Record, the Board's regulatory decisions are based on evidence filed in the public domain and on open and established processes.

The Board plays a key role in Canada's energy economy by ensuring that thorough consideration is given to all aspects within the Board's legislative mandate and by using regulatory procedures that are results-oriented, efficient and effective.

The Board's performance in carrying out its regulatory responsibilities is reflected in part by the frequency of appeals of decisions and requests for reviews of decisions, and in the elapsed time required to produce decisions (cycle times).

The Board processed over 3500 applications in the last five years. From those applications, 26 requests for review were received by the Board resulting in five decisions being varied or rescinded. There was one review outstanding as of 31 March 1997. The remainder of the requests for review were either dismissed by the Board or withdrawn or abandoned by the applicant.



## Reviews

Year	Requests for review	Varied/ Rescinded	Denied/ Dismissed/ Withdrawn	Outstanding
1992	3	1	2	
1993	10	1	9	
1994	2	1	1	
1994	5	1	4	
1996	6	1	4	1
Total	26	5	20	1

As well, during the period 1992 to 1996, 36 matters were brought before the courts. Of these, 28 were applications for leave to appeal with the balance being references, applications for judicial review or stay applications. Of the 28 applications for leave to appeal, six were granted by the Courts, three remained outstanding as of 31 March 1997 and the remaining 22 were either denied, dismissed or withdrawn by the applicant. Of the six appeals for which leave was granted, three had been heard by the Courts as of 31 March 1997. Of these three, one decision of the Board was upheld and two overturned.

## Appeals

Year	Appeals	Upheld	Overtured	Dismissed/ Withdrawn	Outstanding
1992	7	1		6	
1993	5			5	
1994	2			2	
1995	5		2	3	
1996	9			6	3
Total	28	1	2	22	3

### ii) Cycle Times

Cycle times for the processing of applications are critical to our stakeholders in order for them to respond to market opportunities. The Board's expeditious manner in dealing with applications is an ingredient in the quality of our decisions. Although there is a wide variation in the complexity of the applications adjudicated by the Board, we use trends in average cycle times as one measure of the efficiency of processes.

A comparison between average cycle times for various types of applications handled by the Board in 1995 and 1996 shows a tendency towards improved efficiencies and responsiveness.

#### Average Cycle Times for Applications

	Short Term	Small Pipeline	Written	Large Pipeline
1996	2 days	7 weeks	12 weeks	20 weeks
1995	3 days	n/a	18 weeks	23 weeks

Recent federal environmental legislation, most notably the CEA Act, has increased the Board's regulatory process requirements. The Board is pursuing with the Canadian Environmental Assessment Agency approaches to streamline these processes, while properly giving effect to the legislation and ensuring protection of the environment and other public interests.

We also anticipate a number of complex applications for new pipeline systems which will require review under the CEA Act and will involve provincial governments as well as federal and provincial government agencies. For example, the adjudication of the Express Pipeline application took 53 weeks, involving the first joint panel review to be held at the federal level pursuant to the CEA Act.

### **iii) National and International Recognition**

The Board has developed an international reputation as an expert regulatory tribunal with a long and successful track record within the Canadian federal and provincial energy regulatory regime. As a model regulator, our services and advice are increasingly being sought by the public, other agencies and foreign organizations. In a recent study of emerging economies done by the Canadian Association of Petroleum Producers and Natural Resources Canada, one of the needs identified to ensure effective development of energy resources was to establish sound regulatory bodies.

Foreign governments and other agencies have come to the Board to learn more about the Board's mandate, legislation and regulatory processes and its approach to energy studies. As a measure of the degree to which the Board's expertise is recognized internationally, in 1996 representatives of more than 15 foreign governments consulted with the Board in the course of developing energy regulatory regimes suited to their requirements.

## ***B.2 Effective Public and Environmental Safety Regulation***

### **a) PIPELINE FACILITIES**

Canada's federally regulated pipeline network started in the 1950's with the construction of major pipeline systems. The network has expanded steadily since that time and currently there are over 40,000 km of pipeline under NEB jurisdiction. A pipeline failure can result in death or cause severe environmental damage. The ageing of the infrastructure, increasing competitiveness and cost-consciousness of the pipeline industry, as well as, the encroachment of people into the original pipeline corridors require the Board to be vigilant in ensuring the safety of those pipeline infrastructure systems under its jurisdiction. As well, the construction of new pipelines require careful attention since they can affect numerous landowners and raise environmental concerns.

To ensure the safe operation of pipelines and the protection of the environment, the Board has a comprehensive regulatory program which includes the development of regulations, the conduct of regular safety and environmental inspections and audits and public inquiries into safety related issues. In the event of a pipeline failure, the Board investigates to determine whether the company was in compliance with the regulations and whether the regulations need to be modified. For example, in mid-1997, the Board completed the drafting of major revisions to its *Onshore Pipeline Regulations* ("OPR") to simplify the requirements and place greater emphasis on pipeline maintenance.

One major accomplishment in 1996 was the completion of a wide-ranging inquiry into stress corrosion cracking ("SCC"), on Canadian oil and gas pipelines. SCC is a complex and not well understood metallurgical phenomenon, which has been the cause of over 22 failures, on federally and provincially

regulated pipelines in Canada. The inquiry included community visits, technical information sessions with key researchers and pipeline operators in Canada and elsewhere, and finally a public hearing. In December 1996, the Inquiry Panel released its report with 27 recommendations to promote public safety on oil and gas pipelines. These recommendations have all been accepted by the Board and are being implemented. The inquiry and its results have been internationally recognized as a first of its kind. The results of the inquiry have been shared with provincial jurisdictions and, where applicable, the recommendations have been adopted.

### i) Pipeline Incidents

The Board tracks safety performance of companies and adjusts its regulatory program accordingly. The number of pipeline incidents for the last few years has been relatively stable as shown in Figure 6. As well, no fatal accident involving a member of the general public has ever been recorded on a federally-regulated pipeline. This performance has been achieved even though the kilometres of pipeline in service continue to increase each year.

Companies are required to immediately report incidents which result in a fatality, an injury requiring hospitalization, a fire or explosion, a spill of oil or natural gas liquids, a pipeline rupture, or any other failure or malfunction of a pipeline. In 1996, there were 69 incidents reported in accordance with the OPR, down from 80 the previous year. There were seven work-related injuries and no fatalities related to oil and gas pipeline incidents; no member of the public was injured.

**Figure 6**  
**Pipeline Incidents 1992-1996**

	1992	1993	1994	1995	1996
<b>Liquids Pipelines</b>					
Substance release or ignition	10	11	13	20	22
Other	7	12	10	12	6
<b>Total Liquids Pipelines</b>	<b>17</b>	<b>23</b>	<b>23</b>	<b>32</b>	<b>28</b>
<b>Gas Pipelines</b>					
Substance release or ignition	11	19	18	13	14
Other	20	23	27	35	27
<b>Total Gas Pipelines</b>	<b>31</b>	<b>42</b>	<b>45</b>	<b>48</b>	<b>41</b>
<b>Total Incidents</b>	<b>48</b>	<b>65</b>	<b>68</b>	<b>80</b>	<b>69</b>

## ii) Safety Inspections and Audits

The Board conducts regular on-site safety inspections of pipeline systems to ensure compliance with regulatory requirements, approves specifications and procedures and the terms and conditions set out in certificates of approval, and to ensure safety of company personnel and the public. Figure 7 identifies the Board's activities in this area. The Board is empowered under the NEB Act to promote and provide for public and worker safety, the protection of property and the protection of the environment relating to facilities under its jurisdiction. In addition, Board staff have been appointed as Safety Officers pursuant to the Canada Labour Code ("CLC") to safeguard the occupational health and safety of company field staff.

The safety inspection program identifies situations of non-compliance which are then brought to the attention of the company. In the majority of instances, companies respond quickly to correct the violation, often before the inspector leaves the site. Companies are requested to provide their Assurance of Voluntary Compliance ("AVC") for violations which cannot be rectified quickly and do not present an immediate or serious hazard. The AVC is verified by Board staff at a later date to ensure that the company has taken appropriate corrective action. Hazardous situations which require immediate and direct action are addressed through the on-site issuance of a Board Order by the inspector. All violations in 1996 were successfully rectified via the AVC approach. No field emergency Board Orders relating to safety were issued in 1996.

The Board's approach of diligently working with the pipeline industry in a cooperative manner will lead to improvements in regulatory compliance and overall safety over time. In 1996, NEB inspectors visited 273 sites and received 373 AVCs (1.4 AVCs per site). This compares to 302 sites visited and 355 AVCs received in 1995 (1.2 AVCs per site).

NEB staff also inspected four commodity pipelines which came under NEB jurisdiction in 1996.

**Figure 7**  
**Safety and Occupational Health Inspections - 1996**

	<b>Number of Inspections</b>	<b>AVCs Issued</b>
Construction	40	2
Facility and Plants	178	235
Audits	25	118
Pipeline Crossings	28	18
Commodity Pipelines	4	0
Frontier	30	109
<b>Total</b>	<b>305</b>	<b>482</b>

**iii) Environmental Inspections and Audits**

The Board undertakes an environmental inspection program to ensure compliance with its regulatory requirements, approves specifications and procedures, and the terms and conditions set out in any certificates of approval for a project. The program consists of inspections during the construction, post-construction and operational phase of a facility. Incidents resulting in the release of hydrocarbons or other noxious substances are also inspected as shown in Figure 8. The program ensures that regulated facilities and rights-of-way have been appropriately protected, remediated or reclaimed to approved or legislated standards. Addressing landowner complaints related to environmental or land rights issues is also part of this program.

Board-appointed Environmental Inspectors are empowered to make orders which could require a company to suspend activities or take measures to ensure safety, protection of property and the environment. Environmental inspections follow a practice of consultation with the company in order to solve environmental problems; most non-compliance situations are addressed quickly by the company. If no immediate assurance and actions for protection of the environment can be obtained from the company, the Environmental Inspector will then follow the Board’s normal procedures for assurance of compliance or emergency order. As a result of this consultation process, no AVCs or emergency orders were issued relating to environmental non-compliance during 1996.

**Figure 8  
Environmental Inspections - 1996**

	<b>Number of Inspections</b>
Construction and post-construction	122
Operations	119
Emergency response	15
Frontier	15
<b>Total</b>	<b>271</b>

**b) DEVELOPMENT OF HYDROCARBONS ON FRONTIER LANDS**

The Board regulates the technical and operational aspects of exploration and production of petroleum resources in frontier areas that are not subject to federal/ provincial accords. This principally includes lands north of the 60th parallel. These responsibilities are exercised in accordance with the provisions of the COGO Act and certain provisions of the CPR Act. In addition, the Board provides technical assistance to the Offshore Petroleum Boards and the Department of Indian Affairs and Northern Development.

In considering Frontier applications, the Board establishes requirements for conservation of the resource, Public and worker safety, protection of property and the environment, as well as the financial capability of operators to meet any potential liabilities that may arise from authorized activities. Figure 9 shows the frontier activity in 1996.

There were no reviews or appeals related to COGO Act decisions in the period ending March 1997.

The Board conducts environmental and safety inspections in the non-Accord Frontier Lands pursuant to the COGO Act and the CLC and their associated regulations. In 1996, NEB staff conducted 45 inspections and received 109 AVCs. In future this data will be collected in a comparable fashion.

**Figure 9  
Frontier Activity – 1996**

	<b>Approvals Issued</b>
Drilling program authorization	1
Authority to drill wells	3
Authority to abandon wells	2
Renewal of suspended well status	7
Authority to abandon facilities	2
<b>Total</b>	<b>15</b>

### ***B.3 Responsive Energy Organization***

#### **i) Cooperation, Harmonization and Streamlining**

The Board seeks ways to maximize efficiencies within its own operations by entering into agreements with other expert agencies in order to make the best use of expertise and information in federal and provincial agencies. Benefits of cooperation include rationalization of effort amongst regulatory agencies and opportunities to work together to make better use of limited technical staff resources.

Improved efficiencies and effectiveness have resulted from such cooperative efforts. In addition, where possible, the harmonization efforts are aimed at combining processes to reduce the regulatory burden and providing "single-window" processes for energy regulation.

The Board has established a number of partnerships with other jurisdictions and agencies in order to streamline processes and minimize duplication. A list of significant partnerships with other agencies is shown in Figure 10.

**Figure 10**

<b>Cooperation With</b>	<b>Area of Cooperation</b>
Northern Pipeline Agency	NEB provides technical and administrative assistance.
Transportation Safety Board of Canada	NEB shares the responsibility of investigating pipeline incidents. The roles and responsibilities of each body are outlined in the Memorandum of Understanding ("MOU").
Human Resources Development Canada ("HRDC")	The Board has an MOU with HRDC to coordinate the health and safety functions under the CLC for the pipeline companies regulated by the Board.
Natural Resources Canada	MOU to reduce duplication and increase cooperation in areas such as data collection and development, enhancement of energy models and special studies.
Environment Canada	Joint review panels were established in 1996 for Express Pipeline and Sable Gas hearings.  On a case by case basis, in cooperation with the Canadian Environmental Assessment Agency, the Board formulated the approach for the environmental assessment phase of hearings.
Yukon Territory Government	NEB continues to work with Yukon officials to prepare the eventual transfer of oil and gas regulatory responsibilities under the <i>Yukon Accord Implementation Agreement</i> .
Alberta Energy and Utilities Board ("AEUB")	MOU entered in 1995 on Pipeline Incident response. The Board and AEUB have developed a common reserves database for oil and gas reserves in Alberta. In 1996 the Board participated in a Pipeline Task Force to develop consistent and compatible regulatory requirements.
British Columbia Ministry of Employment and Investment	Discussions continue to explore areas of cooperation and collaboration
Ontario Energy Board ("OEB")	Pursuing the Electronic Regulatory Filing (ERF) initiative in collaboration with OEB.
Saskatchewan Department of Energy	Preliminary discussions have been held to establish a common reserves database
Nova Scotia Department of Energy and Department of Environment	Joint Public Review for the environmental and socio-economic assessments of the Sable Gas Projects
All pipeline regulators in Canada	Canadian Standards Association (CSA) standards form the technical core of all provincial and federal pipeline regulations in Canada. The NEB participates on CSA committees with our provincial counterparts.



## **ii) Responsiveness**

To ensure that its approaches to regulation are in step with current market practices, the Board needs to continually monitor market developments and be proactive in adapting its procedures to the continually-changing market environment in which it regulates. Recent trends affecting the Board's regulatory work are the shorter-term contractual arrangements for pipeline transportation, entry of new market participants such as energy marketers and a "just-in-time" approach by producers to oil and gas supply.

The Board is continuously looking for new ways of doing business for the benefit of stakeholders, resulting in modifications to and simplification of many of its processes. The Board has responded satisfactorily in meeting the needs of the clients using innovative approaches. Areas in which the Board has made significant impact in recent years are summarized in Figure 11.

**Figure 11**

Area	Issue Addressed	Initiative and Outcomes
Tolls and Tariffs	Previously, there was little incentive for pipelines to seek out economies under cost of service method of regulation because cost savings were typically passed on to shippers and Canadian consumers	The Board established Negotiated Settlements Guidelines as an alternative to cost of service method. Several major pipelines and their shippers have opted to largely replace traditional cost-of-service regulation with negotiated incentive schemes. Four large companies completed negotiated settlements in 1996-97. Such settlements minimize the number of tolls and tariff hearings and the related costs and facilitate sharing of cost savings between a pipeline company and its shippers.
Exports	<p>Public hearings for gas export applications have become routine and non-controversial matters, suggesting that oral public hearings were not warranted.</p> <p>Gas market conditions and practices have changed significantly as a result of deregulation initiatives.</p> <p>Deregulation in electricity markets as a result of initiatives in the US have created a more open and competitive electricity sector.</p>	<p>In 1996, the Board implemented a written hearing process to improve its efficiency in dealing with routine long-term gas export licence applications.</p> <p>The Board monitors market trends on a regular basis. A report entitled "Canadian Natural Gas Markets - Ten Years After Deregulation" was published in 1996, which concluded that the Board's market-based approach to regulation of gas exports was appropriate.</p> <p>To provide electricity exporters with flexibility in response to the evolution in the electricity sector, the Board has issued "blanket" permits which allow exporters to take advantage of market opportunities and make short-term export sales without any further Board approval. Most of these blanket permits are for ten-year periods and allow short-term exports of up to five years.</p>
Safety	Pipeline integrity and concern for public safety	The Board accepted all the 27 recommendations of the SCC Inquiry Panel and implementation is in progress
Environment	Potential for duplication due to the new CEA Act	Joint panels established to review Express Pipeline and Sable Gas applications. Cooperation and streamlining initiatives being pursued with Canadian Environmental Assessment Agency. In the future stakeholders satisfaction will be measured through a survey.

### **iii) Reports and Publications**

The Board publishes a number of documents and reports which are described in an Information Bulletin entitled "The Board's Publications". In a readership survey conducted after publication of the Board's report "Canadian Energy Supply and Demand 1993 - 2010", 174 respondents replied as follows:

- 88% indicated that the information in the report met their needs;
- 89% felt the detail of information was sufficient;
- 39% of respondents reported that their knowledge had increased "very much";
- the report was rated "excellent" by 29%, "very good" by 60% and "good" by 9%; and
- 44% of respondents wanted the report published annually, while 47% wanted it published every 2 to 3 years.

The Board is making plans towards publication in 1998-1999.

Information bulletins are published on a wide range of topics to assist interested persons in understanding the Board's processes and provide energy information and statistics. Interested persons can visit the NEB Library or the Board's Regulatory Support Office to be placed on mailing lists.

Details of major documents published in 1996-97 can be found in the Board's 1996 Annual report.

### ***C. Key Reviews***

As a result of the Board's major reorganization announcement in October 1996, a number of the planned reviews were cancelled or deferred. The most significant of these were the reviews of the Information Technology Group and the Planning, Budgeting and Performance Management Cycle. For the balance of the 1996-97 year, reviews focused on administrative processes which were not impacted by the transition to the new organizational structure.

### ***D. Contingent Liabilities***

One of the major companies regulated by the Board filed a Statement of Claim with the Federal Court of Canada with respect to the Board's authority to recover relocation costs from the regulated companies. The case was heard in 1996 and the decision was in favour of the Board. The plaintiff filed an appeal with the Federal Court of Appeal.

The appeal was heard in Toronto, commencing 23 May 1997. The Federal Court of Appeal overturned the Trial Division decision on 10 June 1997. The costs associated with the relocation of the National Energy Board have been found to be outside the ambit of the Cost Recovery Regulations. The Court granted to the Appellant, in addition to the reimbursement of the relocation costs paid, pre-and post-judgement interest. Treasury Board has until the fall of 1997 to appeal.

## SECTION IV: SUPPLEMENTARY INFORMATION

### **A. List of Acts and Regulations**

Below is a listing of Acts, Regulations, Rules and Guidelines under which the Board operates or has responsibilities.

#### *Acts*

National Energy Board Act	RSC 1985, c. N-7
Canada Oil and Gas Operations Act	SC 1992, c. 35
Canada Petroleum Resources Act	RS 1985, c. 36
Canadian Environmental Assessment Act	SC 1992, c. 37
Canada Labour Code Part II	RS 1985, c. L-2
Energy Administration Act	RS 1985, c. E-6
Northern Pipeline Act	RS 1985, c. N-26

#### *Regulations Pursuant to the National Energy Board Act*

Cost Recovery Regulations	SOR/91-7
Export and Import Reporting Regulations	SOR/95-563
Gas Pipeline Uniform Accounting Regulations	SOR/83-190

#### *Regulations Pursuant to the National Energy Board*

Oil Product Designation Regulations	SOR/88-216
Oil Pipeline Uniform Accounting Regulations	CRC, Vol. XI, c. 1058
Onshore Pipeline Regulations	SOR/89-303
Offshore Pipeline Regulations	no official site
Part VI (Oil and Gas) Regulations	SOR/96-244
Part VI Regulations, Electricity	SOR/97-130
Pipeline Crossing Regulations, Part I	SOR/88-528
Pipeline Crossing Regulations, Part II	SOR/88-529
Power Line Crossing Regulations	SOR/95-500
Substituted Service Regulations	SOR/83-191
Toll Information Regulations	SOR/79-319

#### *Regulations Pursuant to the Canada Oil and Gas Operations Act*

Canada Oil and Gas Certificate of Fitness Regulations	SOR/96-114
Canada Oil and Gas Diving Regulations	SOR/88-600
Canada Oil and Gas Drilling Regulations	SOR/79-82
Canada Oil and Gas Installations Regulations	SOR/96-118
Canada Oil and Gas Geophysical Regulations	SOR/96-117
Canada Oil and Gas Production and Conservation Regulations	SOR/90-791
Canada Oil and Gas Operation Regulations	SOR/83-149
Oil and Gas Spills and Debris Liability Regulations	SOR/87-331

***Regulations Pursuant to the Canadian Environmental Assessment Act***

Law List Regulations	SOR/94-636
Inclusion List Regulations	SOR/94-637
Comprehensive Study List Regulations	SOR/94-638
Exclusion List Regulations	SOR/94-639

***Rules***

Rules of Practice and Procedure

***Guidelines***

Guidelines for Filing Requirements (22 February 1995). The Guidelines set out the information to be provided by applicants for:

- Early public notification of projects
- Certificates for gas pipelines exceeding 40 kilometres
- Certificates for oil pipelines exceeding 40 kilometres

Section 58 orders for gas pipelines under 40 kilometres or additions and upgrades to existing facilities

Section 58 orders for oil pipelines under 40 kilometres or additions and upgrades to existing facilities

Environmental, socio-economic and lands information for authorization to construct, operate and abandon pipelines

Notices required when dealing with determination of detailed route and approval

Leave to open orders for pipelines

Orders fixing tolls and tariffs

Quarterly surveillance reports to be filed by Group 1 companies

Orders for export and import of gas

Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs (23 August 1994)

Guidelines Respecting Physical Environmental Programs During Petroleum Drilling and Production Activities on Frontier Lands (April 1994)

Financial Regulatory Audit Policy of the National Energy Board (1 December 1994)

Memorandum of Guidance - Regulation of Group 2 Companies (6 December 1995)

Memorandum of Guidance - Retention of Accounting Records by Group 1 Companies

Pursuant to Gas/Oil Uniform Accounting Regulations (30 November 1994)

Memorandum of Guidance to Interested Parties Concerning Full Implementation of the September 1988 Canadian Electricity Policy (7 July 1993)

Offshore Waste Treatment Guidelines, September 1996

Oil and Gas Occupational Safety and Health Guidance Notes (April 1992)

Section 58 Streamlining Initiative - Order XG/XO-100-94, Revision 1(16 November,1995)

## B. Spending Authorities Information

**Figure 12**  
**Authorities for 1996-97 Part II of the Estimates**  
**Financial Requirements by Authority**  
(millions of dollars)

Vote		1996-97 Main Estimates	1996-97 Actual
	National Energy Board		
30	Operating Expenditures	27.2	23.5
(S)	Contributions to employee benefit plans	2.8	3.0
	Total Agency	30.1	26.8

### Votes - Wording and Amounts

Vote (Dollars)		1996-97 Main Estimates
	National Energy Board	
30	National Energy Board - Program expenditures	27,237,000

### **C. Contacts for further information:**

For additional information, contact anyone of the Board Members and Staff listed below:

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