

In Canada, a number of government agencies regulate pipelines to ensure safety, security and environmental protection. In general, though, pipeline regulation can be divided into two categories: provincial regulators for intraprovincial pipelines, and federal regulators for pipelines that cross provincial or international boundaries.

## FEDERAL REGULATORS

### National Energy Board (NEB)

**Pipeline systems** that cross provincial or international boundaries are regulated by the federal government, primarily under the authority of the NEB. The NEB is an independent federal tribunal that was established in 1959 by the Government of Canada to regulate pipelines that cross provincial or international borders.

Following is a brief overview of the NEB's regulatory authority:

- **Pipeline Construction and Operation** - Proposed interprovincial and international oil and gas pipelines, and additions to existing pipeline systems under federal jurisdiction, require the NEB's approval before they may be built. Public hearings are held for pipeline construction applications exceeding 40 kilometres (25 miles) or any other applications at the discretion of the NEB.

In determining whether a pipeline project should proceed, the NEB reviews, among other considerations, its economic, technical and financial feasibility, whether the pipeline will be used and useful, and the environmental and socioeconomic impact of the project.

To ensure that engineering, safety and environmental requirements are met, the NEB audits and inspects the construction and operation of pipelines. Since February 1987, NEB inspectors have also been responsible for enforcing Part II of the Canada Labour Code, applying to the occupational safety and health of pipeline workers in the field.

The NEB shares responsibility with the Transportation Safety Board for incident investigation. The NEB investigates pipeline incidents to determine whether its regulations have been followed and if those regulations may need to be changed. The Transportation Safety Board investigates the cause and contributing factors. The NEB also monitors excavation activity by third parties near pipelines to ensure compliance with existing regulations.

- **Environmental Protection** - The NEB's environmental responsibility includes ensuring environmental protection during the planning, construction, operation and abandonment of energy projects within its jurisdiction. When making its decisions, the NEB may take into consideration environmental concerns related to air, land and water pollution, disturbance of renewable and nonrenewable resources, the integrity of natural habitats, the disruption of land and resource use, and the protection of landowner rights.

Companies preparing an application to the NEB are required to anticipate the environmental issues and concerns that the proposed project could create and to discuss these with all levels of government, potentially affected First Nations, public interest groups, and affected landowners.

If the project application is approved, the NEB ensures that the company continues to protect the environment and public health and safety by auditing and inspecting the company's construction activities, the operation of its system, and the company's routine maintenance and monitoring procedures.

# PIPELINE REGULATIONS: CANADA

## FACT SHEET



- **Environmental Assessment** - The Canadian Environmental Assessment Act (CEA Act) applies to projects before the NEB and requires that they receive the appropriate level of assessment before they proceed. The CEA Act sets out uniform requirements for environmental assessments by all federal government departments and agencies. As a "responsible authority" under the CEA Act, the NEB ensures that appropriate environmental assessments are conducted for projects under its jurisdiction, according to standards prescribed by the legislation.
- **Public Safety** - The NEB is responsible for ensuring that companies comply with regulations concerning the safety of employees, the public, and the environment, as they may be affected by the design, construction, operation, maintenance and abandonment of a pipeline. For 35 years the NEB has worked with CSA International to develop safety regulations and technical standards currently in effect for federally regulated pipelines.
- **Traffic, Tolls and Tariffs** - The NEB regulates pipeline tolls and tariffs under its jurisdiction to ensure tolls are just and reasonable and that there is no undue discrimination in tolls, access to the pipeline, tariffs or services. In addition to examining tolls applications and considering complaints about tolls or service, the NEB conducts compliance audits as part of its monitoring responsibility.

### Other Federal Regulatory Bodies

Approval from other regulatory bodies may also be needed, depending on the type and ownership of the land which the pipeline crosses. In exercising its authority, each federal department must fulfill its fiduciary responsibilities to Aboriginal peoples and has a duty to consult on any decisions it may take.

**Natural Resources Canada** has responsibility for the use of explosives during construction activities as set out in the federal Explosives Act.

**Environment Canada** is responsible for several federal laws that could potentially impact pipeline activities. These include the Species at Risk Act (prohibition against the destruction of critical habitat), the Migratory Birds Act (prohibition of the deposit of a substance that is harmful to migratory birds into waters or areas frequented by migratory birds) and the Canadian Environmental Protection Act (permit for disposal at sea which may be required for dredging).

**Fisheries and Oceans Canada** is responsible for the "habitat protection and pollution prevention provisions" of the Fisheries Act. Under Section 32, authorization is required if any fish will be destroyed and under section 35 authorization is required to carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat. Under Section 36, any unauthorized deposit of a deleterious substance into water inhabited by fish is subject to federal prosecution.

**Transport Canada** is responsible for administering Section 5 of the Navigable Waters Protection Act to ensure that the use of waters for navigation is not obstructed by construction or operations of in-water infrastructure. This may be required at river crossings or the marine terminal.

**Indian and Northern Affairs Canada** plays a role through the Indian Act if reserve lands are crossed.

**Environment Canada, Department of Fisheries and Oceans** and provincial environment departments must approve plans for water crossings (streams, lakes, rivers, etc.)

**Environment Canada** and provincial environment departments must approve plans for archeological and historic sites crossings. They must also approve plans for top soil stripping, erosion control, land reclamation, revegetation and reforestation.