

National Energy  
Board



Office national  
de l'énergie

**Frequently Asked Questions**

**Pertaining to the**

**Proposed**

***Damage Prevention Regulations***

Canada

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## Preamble

This document includes the most commonly asked questions by landowners, associations, industry and the public about the Proposed *Damage Prevention Regulations* (previous and current versions) and the National Energy Board's (NEB or Board) responses to those questions. As it is likely that additional questions will be asked about the Proposed *Damage Prevention Regulations* (DPR or Regulations), the Board plans to issue updated versions of this document.

The purpose of this document is to provide landowners, associations, industry and the public with additional information regarding the Proposed DPR. This document has been prepared in the hope that the information will be of use to the stakeholders in understanding the Proposed DPR.

## Background

The Board developed the existing *National Energy Board Pipeline Crossing Regulations, Part I* and the *National Energy Board Pipeline Crossing Regulations, Part II* (collectively referred to as the Pipeline Crossing Regulations) in 1988. Since that time, a considerable amount of work has been accomplished throughout the pipeline industry in the area of damage prevention. When the Board decided to review the Pipeline Crossing Regulations in mid 1999, it became evident that the regulations focussed more on damage prevention than on crossing activities and as such should be renamed the *Damage Prevention Regulations*.

In 2001 the Board undertook a survey of approximately 350 interested companies, groups and individuals to obtain feedback on what should or could be included in the Proposed DPR. In the surveys returned, more than 80 percent of respondents indicated strong support for a number of damage prevention activities including: one-call centres for NEB regulated pipelines; accuracy requirements for location of pipelines; development of minimum qualifications for pipeline locators and the development of standards for awareness programs.

Between 2002 and 2003 the Board undertook open houses and focus group meetings across Canada to consult on *A Conceptual Draft of the Proposed National Energy Board Damage Prevention Regulations & Guidance Notes*. Written comments on the Conceptual Draft were provided by a number of interested persons including pipeline companies and industry organizations, One-Call organizations, various municipal and provincial authorities and contractor associations. The Board considered the comments received and the Proposed DPR were redrafted.

At the end of 2004, the NEB submitted the Proposed DPR to the Department of Justice (DOJ) for legal examination leading to republication and eventual legislative approval. The October 2004 version of the Proposed DPR was posted on the NEB website in February 2005. Since then the NEB has received and considered comments. In addition, the NEB has been collaborating with DOJ on reviewing the Proposed DPR, which has resulted in several revisions. Although the current version of the Proposed DPR looks different from the version that was shared with stakeholders late in 2004, and the draft posted on the Board's website in 2007, this current version of the Proposed DPR reflects the same intended approach.

Some of the major changes included in the Proposed DPR are: the administration of the 30 metre safety zone, the requirement for pipeline companies to be a member of a one-call centre and the requirement for a pipeline company to have a damage prevention program that includes provisions for the management of the movement of vehicles and mobile equipment across the pipeline.

## **Proposed *Damage Prevention Regulations***

To assist readers, sections 48, 108, 112 and 129 of the *National Energy Board Act* (Act), which are referred to in the following answers and under which the Proposed DPR are made, have been included as Appendix 1.

### ***Question 1 - Why are the regulations being replaced?***

The NEB plans to replace the existing Pipeline Crossing Regulations with the Proposed DPR as the Pipeline Crossing Regulations are out of date and do not reflect current industry practice. The Proposed Regulations involve a change from prescriptive to goal oriented regulations and address many of the suggestions mentioned in the background.

### ***Question 2 - In the Proposed DPR, what type of new information topics were not part of the Pipeline Crossing Regulations?***

The Proposed DPR includes new information about the following matters:

#### **Pipeline company obligations**

- Be members of a one-call centre, where they exist.
- Have a damage prevention program which includes provisions for monitoring of the use of land and changes in the ownership on which the pipeline is located, and the management of the movement of vehicles and mobile equipment across the pipeline.
- Have standards for locates and records for locators.
- Have an audit program for the purpose of verifying compliance with these Regulations.
- Investigate when it becomes aware of conditions, activities, actions or omissions that might reasonably be expected to cause damage to its pipeline or that might jeopardize the safety of the public or the company's employees who are engaged in the construction, operation or abandonment of the pipeline.
- Maintain a record of all investigations results involving a safety issue.
- Immediately report to the Board, in writing, the results of an investigation, if it concludes that the conditions, activities, actions or omissions were the cause of damage to the pipeline, or have jeopardized the safety of the public or company's employees who were engaged in the construction, operation or abandonment of the pipeline.
- In writing, immediately provide the Board and the person making the request to construct a facility with the reasons for the refusal and inform the person of his/her right to request the Board's permission for the construction of a facility.
- For a proposed ground disturbance within 3 metres of the centre line of its pipe; surface markings that identify the location of the pipe have been placed within three days after the locate request; not more than 30 days has elapsed after the date of the locate report; and the pipe's location has been determined by exposing it, in the presence of a pipeline company representative, in a manner that would not have the potential to damage the pipe and associated facilities; unless the ground disturbance has been assessed as not having the potential to damage the pipe or its associated facilities. (refer to Question 11 'What is ground disturbance?')

- Immediately provide the Board and the person making a request to construct a facility across, on, along or under a pipeline, with the reasons for its refusal in writing and inform the person making the request of their right to seek permission from the Board.
- Assess the operation of vehicles and mobile equipment across a pipeline.
- Have written agreements for utility crossing between the pipeline company and the utility owner (for example: whenever a pipeline crosses a sewer or highway).

**Provisions which apply to any person planning or undertaking an activity that has the potential to damage a pipeline**

- Make locate requests to a one-call centre where one exists, or directly to the pipeline company, at least three working days before the day the work is scheduled to start for:
  - excavations with power-operated equipment or explosives within the safety zone; and
  - ground disturbances within 3 metres of the pipe (refer to Question 11).

**Other provisions**

- Board approval is not required for excavation activities planned outside of the safety zone if the excavations do not have the potential to damage the pipeline. This includes the area outside of the 30 metre safety zone that is within the area prescribed by the Act, interpreted to be 30 metres from the edge of the right of way; and
- The three working day time period for conducting pipeline locates may be extended by mutual agreement of the person making the locate request and the pipeline company.

***Question 3 - What sections in the 2004 Proposed DPR no longer exist in the current draft?***

The following table lists the sections that were included in the 2004 Proposed DPR and were removed from the new version because they went beyond the authority of the Act or because they were already captured elsewhere.

<i>Section</i>	<i>Sections from the 2004 Proposed DPR Which No Longer Exist</i>
<i>3.(1)</i>	<i>The pipeline company may limit the width of the safety zone where the safety zone may impinge on adjacent property.</i>
<i>7.(2)</i>	<i>Where a pipe is not within a pipeline right of way, then leave of the Board under subsection 112(1) of the Act is required for excavation within the safety zone unless the pipeline company has provided written approval for the excavation.</i>
<i>8.</i>	<i>Leave of the Board is not required for ground disturbances associated with construction of a facility across, on, along or under the right of way within the safety zone provided written approval has been obtained from the pipeline company.</i>
<i>9.(2)</i>	<i>Where the Board is the appropriate authority, the pipeline company may apply to the Board for leave under section 108 of the Act when an agreement as described within subsection 9.(1) can not be obtained.</i>

- 11.(1) *Permission of the pipeline company must be obtained prior to operating vehicles or mobile equipment above the pipeline outside the traveled portion of a highway or public road.*
- 11.(2) *The form and content of the permission required shall be determined by the pipeline company.*
- 11.(3) *Permission may be granted for single occurrences or may provide approval for repetitive events.*
- 12.(2) *The pipeline company may exempt limited and specific excavations from the locate request requirements of subsection 12(1).*
- 12.(3) *Exemptions provided by the pipeline company under subsection 12(2) may be provided and communicated through documented materials forming part of the damage prevention program required under section 4.*
- 15.(e) *The pipeline company shall develop, implement and maintain standards for locates of pipelines including...the form and content of the locate report.*
20. *The pipeline company or its designated representative shall immediately halt activities deemed to be contrary to these Regulations.*
- 22.(2) *Where the pipeline company determines that ground disturbance will not result in damage to the pipe and where the depth of the pipe is such that exposure is impractical, the pipeline company may waive the requirements of subsection 22(1).*
23. *Persons undertaking activities or events having the potential to damage a pipeline shall immediately notify the pipeline company of any conditions, activities or actions which could reasonably be expected to have caused damage to the pipeline or which may jeopardize the safety of persons.*
27. *The audit program described in section 26 shall include*
- (a) requirements for the evaluation of the adequacy and effectiveness of the damage prevention program required by section 4;*
  - (b) mechanisms and procedures for the refinement of pipeline company programs and procedures; and*
  - (c) requirements for the creation, storage and handling of audit materials, records and reports.*

***Question 4 - Why isn't there a monetary fine structure included in the Proposed DPR?***

The NEB supports a cooperative approach to compliance, working with parties to ensure that safety commitments and requirements are met.

The NEB does not have the authority under the Act to impose fines in the Proposed DPR. The concept of fines for contravention of the Regulations was introduced in the *Conceptual Draft of the Proposed National Energy Board Damage Prevention Regulations & Guidance Notes* for discussion purposes only. The imposition of fines for violations of certain provisions of the Proposed DPR would require a separate regulatory instrument which would require further examination. At this time, the Board is not actively working on this matter.

***Question 5 - What happened to the requirement to have companies develop detailed crossing guidelines and to submit them for NEB approval?***

The Proposed DPR no longer require that a company submit its detailed crossing guidelines to the NEB for its approval. Since the facilities owned and operated by pipeline companies can vary in size and scope, obligating pipeline companies to submit such guidelines would place an unwarranted burden on companies with pipelines that are located in areas with limited or no crossing activities.

The Proposed Regulations require a pipeline company to develop provisions for the management of the movement of vehicles and mobile equipment across the pipeline as part of its Damage Prevention Program for the purpose of anticipating and preventing damage to its pipeline. It is in every company's best interest to communicate the requirements for crossings that require permission of the company and those that have been assessed and are permitted to the parties affected by its pipeline. Companies are all mandated under the Proposed DPR to develop, implement and maintain a Damage Prevention Program.

***Question 6 - If the Proposed DPR put the obligation on the pipeline companies to manage their rights of way, why must companies report anything to the Board?***

The NEB will continue to monitor all aspects of safety in regards to its regulated pipelines through section 10 of the Proposed DPR. Section 10 requires the company to report to the Board in writing the results of the investigation if it concludes that the conditions, activities, actions or omissions have caused damage to the pipeline or have jeopardized the safety of the public or the company's employees who were engaged in the construction, operation or abandonment of the pipeline.

The reports will provide the Board with information about conditions, activities, actions or omissions that have caused damage to the pipeline or have jeopardized the safety of the public. This information will be used to determine the overall effectiveness of any given company's Damage Prevention Program.

Also, the reports will provide the Board with valuable information regarding the technical quality of the ensuing investigations, whether the appropriate root causes were identified and whether sufficient preventative actions were implemented.

***Question 7 - How will the NEB verify compliance with the Proposed DPR?***

The NEB will verify compliance through field inspections and audits of a pipeline company's records, practices and procedures. The onus is on the individual companies to implement and demonstrate compliance with the Proposed DPR, which is assessed through NEB field inspections and auditing of the company's management systems.

***Question 8 - Why doesn't the NEB provide funding assistance to parties participating in activities such as regulatory development?***

The Board selects regional meeting locations to facilitate attendance by interested persons. The Board also provides processes that encourage parties to participate in a variety of ways to allow for broader and easier participation. This includes submitting written comments and acquiring information from the NEB website.

The Act does not authorize the Board to provide funding to parties participating in meetings or information sessions.

## **Farming Activities**

***Question 9 - Why are farming activities not exempt?***

The Board does not have the authority under the Act to exempt activities that require the operation of vehicles or mobile equipment across a pipeline.

The movement of vehicles and mobile equipment over a pipeline may cause damage to the pipe. It is the pipeline company's responsibility to determine the stress loads that will ensure the continued safety for its pipe and also to specify which vehicles and types of mobile equipment are either exempt or less likely to cause damage. It is crucial that a pipeline company be aware of what is taking place near its pipeline to ensure the safety of all persons living or working near the pipeline.

The assessment of pipeline stress levels requires a comprehensive knowledge of ground conditions, design factors and operating characteristics. For that reason, pipeline companies are in the best position to make these assessments.

Therefore, pursuant to subsection 112(2) of the Act, leave must be obtained from the company when the activities require that vehicles and mobile equipment move across its pipeline. Pipeline companies must be contacted directly to assess the proposed operation of vehicles or mobile equipment and to grant permission to carry on as requested. Leave is not required if the vehicles and mobile equipment are operated within the travelled portion of a highway or public road.

Section 19 of the Proposed DPR has been developed to accommodate low risk operations of vehicles or mobile equipment, but only with the provision that the pipeline company has had the opportunity to assess the operation and determined that it does not have the potential to damage the pipeline.

### ***Question 10 - Why isn't "farming equipment" defined?***

The NEB is strongly encouraging interested groups to work together to develop standards related to blanket crossing agreements, definition of "normal farming operations" and "normal farm equipment", depth of cover and company response times for crossing requests. Further, as described in Action 1.2 in Appendix 1 of the NEB Land Matters Consultation Initiative: Final Report - Draft, the Board intends to incorporate the results of discussions among interested groups in the guidance notes for the Proposed DPR.

The Board does not have the authority under the Act to exempt activities that require the operation of vehicles or mobile equipment across a pipeline. Accordingly, it would not be appropriate for the Board to define 'farming equipment' in the Proposed DPR.

## **Ground Disturbance**

### ***Question 11 - What is ground disturbance?***

Ground disturbance is defined in the Draft DPR Guidance Notes (Guidance Notes) as:

*"Any work, operation or activity on or under the existing surface resulting in a disturbance or displacement of the soil or ground cover."*

No ground disturbances within 3 metres of the centre line of a pipe are allowed unless:

- a locate request has been made at least three days prior to the planned ground disturbance is to start through either the one-call centre where they exist or directly from the pipeline company;
- the pipeline company placed surface markings that identify the location of the pipe and associated facilities to within plus or minus 0.6 metres;
- not more than 30 days has elapsed after the date of the locate report; and
- the pipe's location has been determined by exposing it, in the presence of a pipeline company representative, in a manner that would not have the potential to damage it.

However, these requirements do not apply if the pipeline company has assessed that the effect of the ground disturbance does not have the potential to damage the pipe or its facilities.

Ground disturbances may include but are not limited to the following: digging, excavation, trenching, vertical drilling, topsoil stripping, land levelling, tree planting, subsoil aeration, mechanical rock picking, rutting and driving fence posts, bars, rods, pins or anchors.

Subsection 48(2) of the Act gives the Board the authority to make regulations governing the operation of a pipeline, as well as the safety and security of the public and the pipeline company's employees.

Therefore, ground disturbance has been included in the Proposed DPR to enhance safety in the area near the pipe.

***Question 12 - Why must a pipeline company's representative be present during the exposing of the pipe when required for an excavation or a ground disturbance within 3 metres of the pipe's centre line?***

The pipeline company must ensure the security and safety of its pipeline, the public, and its employees, as well as the protection of property and the environment. Therefore, companies must ensure, through the presence of a representative on site whenever the exposure of the pipe is required, that the proposed excavation or ground disturbance will not interfere with the continued safe operation of its pipeline.

## **NEB Inspection Officer**

***Question 13 - What are the powers of an NEB Inspection Officer in the field?***

An NEB Inspection Officer may:

- Have access to and inspect any lands or pipeline, any excavation activity within 30 metres of the pipeline and any facility being constructed across, on, along or under a pipeline;
- Direct a company or person conducting an excavation activity or constructing a facility to perform any type of testing that the Inspection Officer considers necessary for the inspection;
- Examine and make copies of any information contained in books, records or documents, or in any computer systems, that the Inspection Officer has reason to believe may contain information relevant to the design, construction, operation, maintenance and abandonment of a pipeline; and
- Issue an order when there are reasonable grounds to believe that a hazard to the safety or security of the public and employees of a company or a detriment to property or the environment is being caused or will be caused by anyone of the following:
  - The construction, operation, maintenance or abandonment of a pipeline or any part of a pipeline; or
  - An excavation activity or the construction of a facility across, on, along or under a pipeline.

The order may require the following:

- That the work associated with the pipeline, excavation activity or facility be suspended until the hazardous or detrimental situation has been remedied to the satisfaction of the Inspection Officer or the order is stayed or rescinded; or
- The company or any person involved in the pipeline, ground disturbance, excavation activity or the construction of a facility to take any measures to ensure the safety or security of the public, employees of the company or to protect the property and the environment.

## Safety Zone

### *Question 14 - What is a “safety zone”?*

The safety zone is the area that extends 30m on each side of the centre line of the pipe. If there is more than one pipe in the right of way, the safety zone is measured from the centre lines of the pipes closest to the edge of the right of way.



### *Question 15 - Why is a safety zone necessary?*

The intent of the safety zone is to ensure the safety of all persons living or working near the pipeline and to ensure the pipeline is protected from accidental damage resulting from activities such as excavations using power-operated equipment or explosives. Persons undertaking these types of activities are required by the DPR to contact the pipeline company prior to beginning their work.

### *Question 16 - Does the safety zone still apply when a pipeline does not have a right of way?*

Yes, the safety zone still applies. For example, if a pipeline is within a highway right of way (section 108 of the Act), then the person planning excavation activities must request a locate through the one-call centre, where they exist, or directly from the pipeline company. A locate request must be made at

least three working days before the scheduled excavation start day. Within three working days after receiving the locate request, the pipeline company, at no cost to the person requesting the locate, will undertake the following:

- Assess the impact of the proposed activity;
- Locate its pipe and facilities;
- Place markings to accurately identify the pipe and facilities within plus or minus 0.6 m;
- Take any necessary steps to ensure that its pipeline is protected from damage; and
- Prepare a locate report.

Similarly, if a person is planning a ground disturbance within 3 metres of the centre line of the pipe, the pipeline company must be notified directly or through the one-call centre, where they exist. The pipe must be exposed in a manner that does not have the potential to cause damage unless the pipeline company has assessed that the effect of the ground disturbance will not have the potential to damage the pipe. A pipeline company representative must be on site during the exposing of the pipe.

### ***Question 17 - What is a locate request?***

A communication between a person proposing to excavate or disturb the ground at a particular location and a one-call centre, the pipeline company or their agent in which a request for locating underground facilities is processed.

### ***Question 18 - How will the NEB address company delays associated with a landowner's request for permission to carry out activities within the safety zone?***

In cases where the solution cannot be resolved readily between the parties, the NEB can offer facilitation services such as Appropriate Dispute Resolution. Landowners and pipeline companies are usually able to resolve issues themselves. Landowners can also seek authorization from the Board if the company refuses an excavation or construction request.

Section 14 of the Proposed DPR states that a pipeline company must, within 10 working days following the receipt of a request, either grant or refuse permission to build a facility across, on, along or under a pipeline. Section 18 of the Proposed DPR states that a pipeline company must, within three working days after which a locate request is received, determine if the excavation has the potential to damage the pipe or its associated facilities. The Board encourages a pipeline company to respond to a request as soon as possible regardless of the number of days allowed in the regulation.

Section 4 of the Proposed Regulations requires that a pipeline company include the management of the movement of vehicles and mobile equipment across a pipeline in its Damage Prevention Program. The Board encourages pipeline companies to develop guidelines and service standards for processing requests for the movement of vehicle and mobile equipment in order to provide clear expectations for the public. These companies are also encouraged to maintain records of all crossing requests and responses to requests for audit purposes.

***Question 19 - Is the company allowed to determine what takes place within the safety zone?***

Yes, the pipeline company must assess and determine whether activities in the safety zone have the potential to damage a pipeline. The company will assess the impact of the proposed activities and determine whether this activity may pose a risk to its pipeline. The Proposed DPR sets out these requirements.

This applies to:

- excavations using power-operated equipment or explosives within the safety zone (30 metres on each side of the centre line of the pipe);
- operating a vehicle or mobile equipment across a pipeline (right of way)
- construction of facilities across, on, along or under a pipeline (right of way); and
- ground disturbances within 3 metres of the pipe.

In addition to the requirements in the Act and the Proposed DPR, provisions in the easement agreements also apply.

The pipeline company must ensure the security and safety of its employees and the public, the integrity of its pipeline, as well as the protection of property and the environment. One way the company ensures safety is through its Damage Prevention Program, which may include information on what activities have the potential to damage the pipeline, a description of activities within the safety zone which require notification to the pipeline company and guidelines and service standards for processing crossing requests. Therefore it is in every company's best interest to have crossing guidelines and service standards in order to communicate these policies to parties affected by its pipeline requests.

A person planning an excavation or the construction of facilities can seek leave from the Board if the company refuses the request.

## **Vehicle and Mobile Equipment Crossings**

***Question 20 - Why does the NEB not exempt vehicle crossings over pipelines?***

The Board has, as is discussed in the answer to question 5, incorporated a requirement in the Proposed DPR for companies to have a program to manage the movement of vehicles and mobile equipment across the pipeline.

The NEB is also strongly encouraging interested groups to work together to develop standards related to blanket crossing agreements, definition of "normal farming operations" and "normal farm equipment", depth of cover and company response times for crossing requests. Further, as described in Action 1.2 in Appendix 1 of the NEB Land Matters Consultation Initiative: Final Report - Draft, the Board intends to incorporate the results of discussions among interested groups in the guidance notes for the Proposed DPR.

Subsection 112(2) of the Act sets out that persons wishing to operate vehicles or mobile equipment across a pipeline, outside of a travelled roadway, require the permission of the pipeline company. As a result, the Board does not have the authority to exempt vehicle crossings over pipelines.

Please refer to question 9 for further details.

***Question 21 - Why must permission be received from the company before crossing the pipeline right of way with vehicles or mobile equipment?***

The company, not the Board, has the authority under subsection 112(2) of the Act to provide permission to an individual to operate vehicles and mobile equipment across a pipeline unless the operation takes place within the travelled portion of a highway or public road or the pipeline company has assessed the operation and the operation does not have the potential to damage the pipeline. The company is the most familiar with the unique aspects of its pipeline. Therefore, the pipeline company must be contacted directly to assess the proposed activity and either, grant or deny permission to carry on as requested or decide that permission is not necessary. If permission cannot be obtained from the company, the NEB is available to offer services such as Appropriate Dispute Resolution, but cannot reverse the company's decision.

***Question 22 - Why is a company not required to provide landowners with a blanket leave to cross the pipeline with all types of equipment?***

Under subsection 112(2) of the Act, a pipeline company's permission is required for landowners to operate mobile equipment or vehicles across its pipeline. Therefore, it falls upon the pipeline company to ensure the security and safety of its employees and the public, the integrity of its pipeline, and the protection of property and the environment. Accordingly, the company needs to know about the operation of any type of equipment crossing its pipe at any time. Given this responsibility, it may not be possible for a company to grant blanket leave. This does not preclude the company and the landowner from entering into an agreement which would provide leave for certain equipment, as the company deems safe. Further, the Board expects that pipeline companies, where appropriate, will advise potentially affected persons of situations where permission has already been given for activities, including crossings, which have been assessed as not having the potential to damage the pipeline.

# APPENDIX 1 - Legislative Authority

The Proposed DPR are based upon and will be promulgated pursuant to the following sections of the Act:

## **Section 48**

### **Safety and security**

*48. (1) To promote the safety and security of operation of a pipeline, the Board may order a company to repair, reconstruct or alter part of the pipeline, and may direct that, until the work is done, that part of the pipeline not be used or be used in accordance with such terms and conditions as the Board may specify.*

### **Other measures**

*(1.1) The Board may order a company to take measures that the Board considers necessary for the safety and security of a pipeline.*

### **Regulations as to safety and security**

*(2) The Board may, with the approval of the Governor in Council, make regulations governing the design, construction, operation and abandonment of a pipeline and providing for the protection of property and the environment and the safety and security of the public and of the company's employees in the construction, operation and abandonment of a pipeline.*

### **Exempting orders respecting companies**

*(2.1) The Board may make orders exempting companies from any or all of the provisions of the regulations made under subsection (2).*

### **Terms and conditions**

*(2.2) In any order made under subsection (2.1), the Board may impose such terms and conditions as it considers proper.*

### **Offence**

*(3) Every person who contravenes a regulation made under subsection (2) is guilty of an offence punishable on summary conviction.*

## **Section 108**

### **Construction over other Utility Lines, etc.**

#### **Definitions**

108. (1) *In this section and sections 110 and 111,*

*"appropriate authority" means*

- (a) with respect to a navigable water, the Minister of Transport, and*
- (b) [Repealed]*
- (c) with respect to any other utility, the Board;*

*"utility" means a navigable water, a highway, an irrigation ditch, a publicly owned or operated drainage system, sewer or dike, an underground telegraph or telephone line or a line for the transmission of hydrocarbons, electricity or any other substance.*

#### **Construction of pipeline over other utilities**

*(2) The pipeline of a company may, if leave is first obtained from the appropriate authority, be carried across any utility and for that purpose may be constructed on, along or under any such utility.*

#### **Application for leave**

*(3) On an application for leave under this section, a company shall submit to the appropriate authority such plans and profiles and other information as the appropriate authority may require.*

#### **Terms**

*(4) The appropriate authority may, by order, grant the application in whole or in part and on such terms and conditions as the appropriate authority considers proper.*

#### **Construction without leave**

*(5) The appropriate authority may provide that leave under this section is not necessary if the pipeline is constructed in accordance with the orders, regulations, plans and specifications made, adopted or approved by the appropriate authority for those purposes.*

#### **Exception**

*(5.1) The Board may make orders or regulations prescribing the circumstances in which or conditions under which leave under this section is not necessary to carry a pipeline across a utility other than a navigable water or a railway.*

#### **Leave in emergency cases**

*(6) The appropriate authority may grant leave under this section after construction of the proposed work has commenced if the appropriate authority is satisfied that the work was urgently required and, prior to the commencement of construction, the appropriate authority was notified of the company's intention to proceed with the proposed work.*

## **Section 112**

### **Construction of facilities across pipelines**

*112. (1) Subject to subsection (5), no person shall, unless leave is first obtained from the Board, construct a facility across, on, along or under a pipeline or excavate using power-operated equipment or explosives within thirty metres of a pipeline.*

### **Use of vehicles and mobile equipment**

*(2) Subject to subsection (5), no person shall operate a vehicle or mobile equipment across a pipeline unless leave is first obtained from the company or the vehicle or mobile equipment is operated within the travelled portion of a highway or public road.*

### **Terms and conditions**

*(3) The Board may, on granting an application for leave under this section, impose such terms and conditions as it considers proper.*

### **Directions**

*(4) The Board may direct the owner of a facility constructed across, on, along or under a pipeline in contravention of this Act or the Board's orders or regulations to do such things as the Board considers necessary for the safety or security of the pipeline and may, if the Board considers that the facility may impair the safety or security of the operation of the pipeline, direct the owner to reconstruct, alter or remove the facility.*

### **Exception**

*(5) The Board may make orders or regulations governing*

- (a) the design, construction, operation and abandonment of facilities constructed across, on, along or under pipelines;*
- (b) the measures to be taken by any person in relation to
  - (i) the construction of facilities across, on, along or under pipelines,*
  - (ii) the construction of pipelines across, on, along or under facilities, other than railways, and*
  - (iii) excavations within thirty metres of a pipeline; and**
- (c) the circumstances in which or conditions under which leave under this section is not necessary.*

### **Temporary prohibition on excavating**

*(5.1) Without limiting the generality of paragraph (5)(c), orders or regulations made under that paragraph may provide for the prohibiting of excavations in an area situated in the vicinity of a pipeline, which area may extend beyond thirty metres of the pipeline, during the period that starts when a request is made to a pipeline company to locate its pipeline and ends*

- (a) *at the end of the third working day after the day on which the request is made; or*
- (b) *at any later time that is agreed to between the pipeline company and the person making the request.*

## **Exemptions**

*(6) The Board may, by order made on any terms and conditions that the Board considers appropriate, exempt any person from the application of an order or regulation made under subsection (5).*

## **Inspection officers**

*(7) The provisions of sections 49 to 51.3 relating to inspection officers apply for the purpose of ensuring compliance with orders and regulations made under subsection (5).*

## **Section 129**

### **Regulations respecting accounts, etc.**

*129. (1) The Board may, with the approval of the Governor in Council, make regulations*

*(d) requiring*

- (i) companies that have been authorized under Part III to construct or operate a pipeline,*
- (ii) persons exporting oil, gas or electricity or importing oil and gas, and*
- (iii) persons holding a licence under Part VI or VII,*

*to keep and make available to the Board for inspection by the Board or a person authorized by the Board at a place of business in Canada such records, books of account and other documents in such form as may be prescribed by the regulations and submit to the Board, at such times and in such form as may be so prescribed, returns and information respecting capital, traffic, revenues, expenses and other matters so prescribed and deemed by the Board to be matters that should be considered by it in carrying out its powers and duties under this Act in relation to those companies and persons.*