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## ***Q and A: The Pipeline Safety Act (Bill C-46) and amendments to NEB crossing regulations***

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For public information purposes

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On October 20, 2015, the NEB will issue an Information Paper regarding the NEB's damage prevention regulations; the public comments can be submitted until 13 November 2015. This supporting Q and A document provides some general pipeline damage prevention answers as influenced by the *Pipeline Safety Act* (formerly Bill C-46).

### **Landuse and Damage Prevention**

#### **Q1. What is the status of the Pipeline Safety Act?**

- On June 18, 2015 Bill C-46: the *Pipeline Safety Act*, received Royal Assent.
- In developing the bill, Parliament decided that the new measures will come into force within a year. That means that necessary process and regulation changes that support the legislation must be complete by June 2016 when the provisions in the *Pipeline Safety Act* come into force.
- We recognize that this is an aggressive timeline, and the NEB and Natural Resources Canada are working hard to develop the changes to regulations.
- Public input is an important part of the regulatory process. There will be opportunities for public input into the development of the regulations over the coming months.

#### **Q2. Why is pipeline damage prevention important?**

- The National Energy Board is modifying the regulations related to pipeline damage prevention to reflect legislative changes. The focus is to move the current regulatory intent into the new regulations, as much as practical. This will include the existing pipeline damage prevention requirements.
- Conducting unauthorized activity near pipelines, or otherwise failing to comply with damage prevention requirements, puts the safety of people and the environment at risk. All persons have a responsibility to ensure the safety of the pipelines.
- As a federal regulator of international and interprovincial pipelines, the National Energy Board promotes safe work practices around pipelines through the regulations and by monitoring and enforcing compliance with regulatory requirements. The NEB raises public awareness about safety by providing public information and encouraging cooperation, safety education, and compliance with requirements.

- Companies regulated by the NEB are also required to implement a Damage Prevention Program that includes a public awareness program.
- Whether you are a property-owner, a municipal employee, or a contractor planning a project that involves digging, compliance with the approved safety steps will help ensure your project goes ahead safely and without issues.

***Q3. How are farmers impacted by the changes to the legislation?***

- Conducting unauthorized activity near pipelines, or otherwise failing to comply with damage prevention requirements, puts the safety of people and the environment at risk.
- Farmers' activities on their lands will not generally be restricted except within a certain distance from the pipeline that will be set by regulations. This is necessary to protect the farmer as well as the environment. Cultivation that is less than 45 cm deep and any other activities that don't go deeper than 30cm, and that do not result in a reduction of cover over the pipeline are not considered ground disturbances according to the *Pipeline Safety Act*.

***Q4. Can a landowner/farmer receive a financial penalty?***

- Administrative Monetary Penalties or AMPs are financial penalties the Board can impose on companies or individuals for not following any NEB requirement intended to promote safety or environmental protection.
- AMPs can be applied to both companies and individuals. The NEB's enforcement policy says that AMPs could be used when other enforcement tools such as letters, orders or voluntary commitments are not working.

***Q5. What can a landowner do to avoid issues/enforcement actions?***

There are several things landowners can do to make sure they are following the NEB's rules and avoiding any enforcement actions. These include:

- Visiting the site where you would like to do work and looking for pipeline warning signs or locate marker posts;
- Contacting the pipeline company to obtain a copy of the pipeline company's guidelines for working near their pipeline;
- Contacting the one-call centre or the pipeline company directly, if there are no one-call centres serving your area, to have the pipeline located.

Updated guidance materials will be developed for landowners and the public when the updated regulations are completed.

The NEB also requires companies to provide landowners with information on how they can keep pipelines safe. This should be done as part of a company's Public Awareness Program. The NEB audits

companies' Damage Prevention Programs periodically to confirm they are meeting the Public Awareness requirement and holds companies accountable if they do not.

***Q6. If a landowner/farmer causes damage to a pipeline will they liable for damages and/or spill cleanup? Are they liable in case of negligence?***

- The absolute liability provisions in the *Pipeline Safety Act* apply to the company that owns the pipeline, *not landowners or other companies such as incorporated farms*.
- Also, the NEB holds the company that owns the pipeline, and not farmers or others, responsible for any clean-up costs if there is a spill or rupture. The *Pipeline Safety Act* puts in place new measures to help ensure that pipeline companies hold enough financial resources to pay these types of costs in the event of a spill or rupture.
- However, it is important to understand that civil law continues to apply.