



File Ad-GA-ActsLeg-Fed-NEBA-Amend 06 01  
13 May 2016

To: All Companies regulated under the *National Energy Board Act*

**National Energy Board (NEB or Board)**  
**Implementation of Financial Resource Requirements**

On 19 June 2016, amendments to the *National Energy Board Act* (NEB Act) that establish absolute liability limits and financial resource requirements come into force. These amendments are the result of Bill C-46, the *Pipeline Safety Act* (Act).

The Act requires companies operating pipelines to carry a minimum level of financial resources to cover the costs of an unintended or uncontrolled release from a pipeline. Companies will be required to demonstrate and maintain financial resources that match, at a minimum, the amount of absolute liability applicable to them. A portion of the financial resources must be readily accessible to the company.

NEB-regulated companies operating pipelines that individually or in the aggregate have the capacity to transport at least 250,000 barrels of oil per day (*major oil pipelines*) are subject to an absolute liability limit of \$1 billion. Absolute liability limits for companies other than those operating *major oil pipelines*, the amount of readily accessible financial resources, acceptable types of financial resources and the requirements for pooled funds will be established in regulations to be enacted by the Governor in Council. Natural Resources Canada (NRCan) has held preliminary engagement sessions on the content of these regulations and has issued a discussion paper setting out proposed classes of pipelines and absolute liability limits.

The NEB is responsible for ensuring compliance with both the Act and its regulations.

*Major Oil and Liquid Pipelines*

Based on information previously filed with the NEB in response to a request from the Board dated 26 February 2016, the Board finds that the following companies fall under the *major oil pipelines* category:

- Enbridge Pipelines Inc.
- Enbridge Pipeline (Westspur) Inc.
- Express Pipeline Ltd.
- TransCanada Keystone Pipeline GP Ltd.
- Trans Mountain Pipeline ULC

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Each of these companies is reminded of its requirement to make a submission explaining the amount of funding available from various types of financial resources, and describe how they could utilize these resources to respond to a release from a pipeline. Companies must also describe to the Board how quickly they could access and mobilize funding under each type of financial resource used. These submissions are to be filed with the Board by **20 May 2016**.

Submissions were also received from Trans-Northern Pipelines Inc. and Montreal Pipe Line Limited. The Board accepts Trans-Northern Pipelines Inc.'s confirmation that its capacity is below the threshold for a *major oil pipeline*. Montreal Pipe Line Limited is not considered to be a *major oil pipeline* at this time. The reasons for this are contained in a separate correspondence of today's date.

#### *Assessment Process*

The Board has decided that the general process which it will use to assess the financial responsibility of all its regulated companies will be as follows:

1. Data collection (input from regulated company)
  - Companies operating pipelines that transport oil will provide the capacity (in barrels per day) of their pipelines individually and in the aggregate. Companies that operate gas pipelines will provide the maximum pipeline diameter (in millimeters) and associated maximum operating pressure (in megapascals) for each pipeline. Companies that operate non-hydrocarbon commodity pipelines will identify the state of the product carried (i.e. semi-solid, liquid or gaseous) and indicate whether the pipeline crosses water in addition to land.
  - Dates for this step were outlined in the Board's 26 February letter to pipeline companies.
2. Assignment of absolute liability amount
  - The Board will assign a category and class which will prescribe an associated absolute liability amount to each company based on information provided in step 1.
  - This is the step the Board is currently at for *major oil pipelines*.
3. Board determination of class (with associated absolute liability amount) and financial resource requirement amount (if different from absolute liability amount)
4. Financial resource requirement plans filed
  - The regulated companies will file their plans (or evidence) on how they will meet the financial resource requirements communicated by the Board in step 3.
  - For *major oil pipelines*, these submissions are due on 20 May 2016 as noted previously.
5. Financial resource requirement plans assessed
6. Board approval of financial resource requirement
  - The Board will decide that either the financial resource requirement is adequately met through the company's plan (approval) or that financial resources of specific types and/or amounts under each type must be held.

7. Filing of revised financial resource requirements, if required
  - A number of situations can require revised financial resource filings. These situations include: the company is ordered by the Board in step 6, a company changes the way in which it wants to organize its financial affairs, a company has a change to its absolute liability amount through the acquisition or sale of pipelines, or changes to the type of service of existing pipelines, among others. Companies are expected to file revised information and financial resource plans for Board approval.
8. Annual filing by company describing the classes and categories of its pipelines and financial resources which are in place
  - This is an annual compliance filing whereby companies will submit a description of the NEB-regulated facilities (as required in step 1) and their financial resources that demonstrate compliance with the order or determination issued in step 3 or step 6. Further details will be issued in due course.

Following the publication in the *Canada Gazette* of the draft regulations, the Board will issue a guidelines document in draft form, for consultation with industry and the regulated companies.

If you have any questions regarding this letter, please contact Jessica Lim at 587-538-2959 or toll free at 1-800-899-1265.

Yours truly,

*Original signed by L. George for*

Sheri Young  
Secretary of the Board