



Mike Sullivan, Executive Director
Canadian Common Ground Alliance
Suite 104, 4242 7th Street SE
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23 March 2016

Re: Underground Infrastructure Safety Enhancement Act

Dear Mr. Sullivan,

The Canadian Energy Pipeline Association (CEPA) respectfully submits this letter of comment regarding the *Underground Infrastructure Safety Enhancement Act*.

In the current environment, each province has authority over underground infrastructure within their jurisdiction and provincial legislation varies from province to province, with some being more robust than others and some lacking the necessary legislation. This diversity makes it difficult to implement a comprehensive nation-wide, safe digging framework. CEPA members acknowledge and support the efforts to develop and enhance guidance for damage prevention through this legislation with the aim to harmonize regulation across the country, and more importantly to emphasize the industry's commitment to improve safety and environmental protection.

CEPA and its members are supportive of the content and language of the *Act*, and herein provide our comments, which are presented below. These comments are grouped into the following categories: Request for Clarity and Recommendations for Revisions.

1. Request for Clarity

Section 9 (1)

Section 9 requires a person or entity to advise a notification center that serves a province before that person or entity undertakes work for a project that results in a ground disturbance that may affect underground infrastructure. CEPA members request clarification as to whether this notification requirement equates to making a request for a locate. Furthermore, a clear definition of the type(s) of underground infrastructure requires a notification under this section.

Section 16

CEPA members seek clarification regarding the penalties imposed in the *Underground Infrastructure Safety Enhancement Act*, specifically if they are intended to be applied in situations where administrative monitoring penalties are already applicable.

2. Recommendations for Revisions

Section 11 (1)

As written, this section seemingly puts undue legal risk on the underground infrastructure owner/operator, which requires them to declare that there will be no damage to underground infrastructure resulting from a ground disturbance project, in spite of the potential unsafe actions of the entity performing the ground disturbance project. In addition, the time frame suggested varies from province to province and is not consistent with the 72 hours required in the *NEB Pipeline Crossing Regulations Part II (PCR II)*. We suggest the following changes:

11 (1) Subject to the regulations, if the owner or operator of registered underground infrastructure receives from a notification center a notification referred to in section 10, the owner or operator must, within the time specified by the notification center or by the legislation



of the province in which the notification center is located, **or a longer period agreed to by the owner or operator and the person or entity performing the ground disturbance,**

(a) by using the prescribed color codes, mark on the ground the location of the underground infrastructure and provide the person or entity planning to undertake a ground disturbance project with a written description of that location; **or**

(b) provide a written ~~declaration~~ **confirmation** to that person or entity that the ground disturbance project ~~will not~~ **is not anticipated** to cause damage to the underground infrastructure; or

(c) Enter into an alternate locate agreement with that person or entity.

Conclusion

The *Underground Infrastructure Safety Enhancement Act* provides a unique opportunity to provide guidance and leadership with respect to the development and implementation of a robust damage prevention regulation. To this end, we strongly encourage that the *Act* is written to be consistent with the PCRII to avoid duplication as regulated companies require consistent and clear regulation in order to ensure operation to the highest standard. Moreover, we request that the changes and recommendations outlined in this response be considered.

We thank you for this opportunity to provide comments. CEPA and its member companies look forward to continuing our dialogue on regulatory and operational matters as the proposed *Underground Infrastructure Safety Enhancement Act* is moved forward.

Yours sincerely,



Jim Donihee
Chief Operations Officer