



Rémi Bourgault
Clerk of the Standing Committee on Natural Resources
House of Commons
131 Queen Street, Room 6-32
Ottawa, Ontario, K1A 0A6

25 March 2015

Dear Mr. Bourgault,

The Canadian Energy Pipeline Association (CEPA) respectfully submits this letter to the House of Commons Standing Committee on Natural Resources regarding Bill C-46: *An Act to amend the National Energy Board Act and the Canada Oil and Gas Operations Act*. CEPA member companies operate 115,000 kilometres of transmission pipelines in Canada, of which 66,600 fall under the jurisdiction of the National Energy Board (NEB). Our members transport 97 per cent of Canada's daily natural gas and onshore crude oil production from producing regions to markets throughout Canada and the US in an environmentally responsible, reliable and safe manner.

In 2014, our members collectively transported 5.3 trillion cubic feet of natural gas and 1.2 billion barrels of liquid petroleum products, a gigantic amount of energy delivered safely. Furthermore, our industry has a longstanding operational safety record having achieved a 99.9995 reliability rate between 2002 and 2013. Pipeline operators are custodians of this critical national infrastructure and are fully aware and committed to the importance of keeping these energy highways safe for the public, the environment and for the benefits that accrue to the social fabric of our nation.

CEPA supports the proposed legislation as an important and positive step to instill further public confidence in the transmission pipeline industry in relation to emergency prevention, preparedness and response activities. We believe that it should be passed through the legislative process in an efficient and effective manner in order to ensure that the regulations pursuant to the Bill might be drafted and consulted on in a timely manner. CEPA is encouraged by the level of consultation that occurred in the drafting of the current legislation and we look forward to supporting Natural Resources Canada and other stakeholders in the continued development of regulations.

The proposed Bill complements our industry's commitment to the polluter-pay principle, excellence in emergency response, pipeline safety and environmental protection. More detail on these commitments and how they align with the proposed regulatory changes can be found in the following comments. Also provided are some recommendations for the committee to consider in their review of the bill. These comments represent the views and values of the CEPA and its members.



PREVENTION

Our members are focused first and foremost on pipeline safety and the prevention of all incidents. This attention to safety is applied throughout the full life-cycle of pipelines including their construction and their operations. Our member companies work diligently to ensure their pipeline systems are safe and reliable, and that they are operated in a sustainable manner reflective of the Public Interest. This continuous focus on safety led to our members collectively investing more than 1.4 billion dollars to ensure the safety of their pipelines in 2013.

One example of how this money is invested is through comprehensive pipeline integrity management programs. These programs provide pipeline operators a systematic way to identify, assess, prioritize, evaluate, repair and validate the integrity of a pipeline. The money is also invested in collective actions taken in order to continuously improve performance through the sharing of best practices and technological advancements among members. For example, through the CEPA Integrity First® program, safety is one of the three priorities identified. The stated commitment from all CEPA CEOs of achieving zero pipeline incidents provides the focus for all of our activities. To that end, members have made significant progress by adopting and applying the following practices:

- Applying strict standards and systems in designing, constructing, operating and maintaining pipelines;
- Maintaining and using detailed information and records to make informed decisions that support pipeline integrity;
- Identifying, evaluating and managing risks and hazards to protect the public, the environment, and the integrity of pipelines;
- Committing to continual improvement and sharing lessons learned to support the ongoing improvement and safe operations of pipelines; and
- Striving to meet or exceed all new and existing regulations applicable to operations and to monitoring compliance.

The industry's focus on safety is complemented by the fact that it is also subject to strict regulatory standards and oversight. Extensive federal and provincial regulation ensures that pipelines are operated safely and in the Canadian public interest. CEPA and its members work with, governments, regulators and other stakeholders to ensure that our industry remains the safest and most reliable means of transporting energy across long distances. One example of this collaborative effort is the pipeline industry's support for the Canadian Standard Association (CSA) and our participation in developing nationwide standards. Many of the industry practices we support are designed to complement, or become, standards, beginning as official recommended practices through bodies such as the CSA. CEPA believes that the CSA is the appropriate technical organization to engage in establishing world-leading standards that incorporate the best available technologies for spill prevention, preparedness and response. The CSA is recognized worldwide for their balance, technical superiority, and ability to meet the needs of industry, regulators, and the public. The importance of standards to an effective regulatory regime is recognized and CEPA is working with CSA and other



stakeholders, including the NEB, on the development of CSA Z246.2 as a national standard for emergency response.

We recognize that our commitment to pipeline safety is shared by the government of Canada and we believe that the proposed legislation demonstrates this commitment. Of particular interest in the area of emergency prevention is the government's intention to seek "guidance from the NEB on the application of 'best available technologies' for pipeline construction and operations." We understand that Canadians fully expect that our industry is doing everything necessary to remain an effective and safe means of energy transportation. Pipeline operators and various industry partners, including government and the research community, have a shared responsibility to advance technology through science and innovation. This is why CEPA is involved in a number of collaborative initiatives that support advancements in pipeline technology. One example is our participation in the Canadian Pipeline Technology Collaborative. This pan-Canadian organization's goal is to leverage and optimize pipeline research and development that addresses industry needs, with government and academic partners. We encourage the government to explore these types of multi-sectorial initiatives with a nation-wide approach to advancing technological innovation in the transmission pipeline industry.

PREPAREDNESS

All aspects of the life cycle of a pipeline – from design and construction to operation and retirement – are subject to strict oversight from regulatory agencies and government departments. Extensive federal and provincial regulation assures that the safe and responsible operation of pipelines is in the Canadian Public Interest. Both the NEB and provincial regulators review and audit operators' emergency responses plans and require companies to conduct regular inspections. In 2013 alone, there was about 37,000 integrity management equipment inspections and 440 integrity management facility piping inspections conducted on federally regulated pipelines. In addition to these inspections, the NEB requires companies to complete comprehensive audits to identify issues before incidents occur. Also in 2013, pipeline companies conducted 313 emergency response exercises, many of which were mandated by and involved personnel from the NEB to validate their overall effectiveness. CEPA and its members are also involved in a number of initiatives designed to ensure the pipeline industry is meeting or exceeding regulatory requirements related to preparedness.

CEPA's Mutual Emergency Assistance Agreement (MEAA) is one example of how the transmission pipeline industry is seeking to act in the Public Interest by exceeding regulatory requirements. The MEAA formalized the practice of resource sharing in the event of emergencies and will remove legal barriers and reinforce the capabilities of our members' emergency response capabilities. In order to maximize effectiveness, the agreement includes a regional inventory of available emergency resources and requires companies to work within a common Incident Command System (ICS), which assures a common system of command and control to guarantee interoperability in support of multi-company responses to emergency situations.

CEPA realizes that for the MEAA to work effectively, member companies must understand how it works and ensure that people within their organizations can respond quickly and effectively if they are called



upon. This is why CEPA conducted an emergency exercise involving its members in September of 2014. Member companies regularly test their emergency preparedness through a variety of exercises and audits, however, this is the first time a joint exercise has been undertaken. The exercise tested the ability of participants to follow the procedure, put a call out for assistance and execute the MEAA in real-time. It also tested the ability of member companies to work together using the principles of the ICS. The results of this joint emergency exercise helped ensure the interoperability of member companies' employees that would be called upon during an emergency.

In addition to the initiatives previously described, CEPA members also implement common industry practices regarding emergency preparedness. These practices include:

- Regular assessment of pipelines and rights-of-way and the application of risk-management practices to minimize adverse impacts to people, property or the environment in an emergency situation;
- Education and cooperation with local emergency response agencies and community members to address their needs and concerns in the event of an emergency; and
- Regular review of our emergency response plans, including drills and lesson-sharing with our peers and emergency responders to continually improve our response capabilities.

Throughout all common industry practices and initiatives, we are committed to the highest level of transparency without jeopardizing the safe operation of our assets. One recent example of this is the work we have begun in response to the NEB's request regarding increased transparency of emergency response plans. Pipeline operators often share their response plans with relevant government bodies as well as Aboriginal communities and first responders along pipeline rights-of-way. Due to the increasing demands from the general public, CEPA has struck an executive task force to develop a common approach to the public disclosure of emergency response information pertaining to pipeline operations. The task force is expected to propose principles regarding the disclosure of emergency response information in early April of 2015. The intention soon thereafter is to develop a standard template for emergency response plans that will meet Canadians' high expectations for transparency while restricting from the general public only that information pertaining to privacy and the security of critical infrastructure, which is always made available to emergency responders.

Although the pipeline industry has already operationalized very high standards for emergency preparedness, CEPA recognizes that the proposed legislation seeks to further strengthen the regulations that govern this important area of pipeline operations. CEPA is highly supportive of the role the NEB plays in regulating our industry. With this in mind, we believe that in order to ensure that new authorities and roles that are proposed in the bill are operationalized effectively and efficiently, the Board needs to receive appropriate funding. The current allocation of funding, and restrictions on how it may be employed, as imposed by the Treasury Board are too restrictive to sustain and/or expand the critical expertise found within their current staff. CEPA believes that a well-funded and highly competent regulator is vital to Canada's national interests.



RESPONSE

Our member companies have an exceptional track record, with a low frequency of incidents. From 2002-2013, there has been an average of 3.75 significant failure incidents¹ per year on CEPA member pipelines. On liquids pipelines, we averaged 2 significant failure incidents per year. In the unlikely event of a spill or release, our members have shown that they are fully committed to the appropriate restoration of the environment, without any financial consequence borne by the public. This has always included consideration for loss of public use and the repair of public and private property or other effects damaged as a result of a pipeline incident. CEPA members take full responsibility for all phases of emergency response, remediation and reclamation in the event of an incident and will continue to do so, regardless of regulation. This is made possible due to our industry's unique ability to invest significant resources into the following:

- Equipment, resources and highly-trained emergency response personnel necessary to respond effectively in any emergency;
- Programs to prevent and manage incidents, as required under the Onshore Pipeline Regulations;
- Insurance to respond to the costs of incidents; and
- Financial capacity to backstop insurance instruments in the event it should ever be necessary.

CEPA members are sophisticated and well-capitalized corporations, and are best placed to lead a spill response should it ever occur. CEPA member companies hold expert knowledge of their pipelines and the emergency response plans associated with them, and have direct control over the technical and financial resources needed to respond. Additionally, locally-based company staff have extensive relationships with dedicated local first responders who are available to assist. Above all, member companies have an abiding commitment to respond effectively to the incident and to restoring the environment.

With this in mind, Section 48.16(2) of the Bill, providing authority for the Board to take any action or measure that it considers necessary in relation to a release, should only be exercised in the most extraordinary of circumstances. Although CEPA understands that such provisions are necessary and

¹ Significant Failure Incident: A failure incident that includes one or more of the following: Caused a serious injury or fatality; Caused a liquid release of greater than 8 m³ (50 US barrels); Produced an unintentional ignition or fire; or Occurred as a rupture.



give comfort to the public, we do not believe they should be acted upon unless there is clear and undisputed evidence that the pipeline operator is failing to respond adequately to an incident.

Notwithstanding CEPA members' strong response capabilities, we are supportive of the proposed legislative requirement for companies operating major crude oil pipelines to have access to a minimum of \$1 billion in financial resources, including a portion of that funding that will be readily available to respond to leaks, spills and ruptures. In developing regulations regarding this requirement, we believe consideration should be given to the following:

- The degree of risk (likelihood and consequence) posed by operations;
- Insurance coverage held by pipeline operators;
- The potential for 'in kind' support such as structured awareness and education programs; and
- The robust equipment and personnel spill response capabilities of transmission pipeline operators.

These considerations are particularly important with respect to companies that do not fall into the class of "major oil pipelines". We support the 'polluter pays' principle and believe that it should apply to all operations that pose a risk to the environment or to human health and safety. This implies that companies with lesser financial capacity should be held to account for the risks they pose and they should be required to hold appropriate resources.

Recommendations

CEPA and its members are fully supportive of the 'polluter pays' principle and believe that Bill C-46 is a positive step forward for the Government of Canada, the NEB and the pipeline industry. We would encourage members of the committee to endorse the bill and for the members of the House of Commons to ensure it is passed before the end of the current legislative session. This will ensure that regulations can be drafted and that the Bill is able to come into force as soon as possible. With this in mind, CEPA has the following recommendations for the committee's consideration:

1. Regulatory requirements that originate from this Bill should be risk-based and consider the strong safety record that the transmission pipeline industry has with respect to the transportation of energy as well as to our demonstrated commitment to effective emergency response and remediation efforts in the event of a release;
2. The Federal government should explore opportunities to create or participate in multi-sectorial initiatives with a nation-wide approach dedicated to advancing science and technology leading to improved performance in the transmission pipeline industry;
3. The Canadian Standards Association is the appropriate technical organization to engage in establishing world leading standards for spill preparedness and response;
4. In order for the new authorities of the NEB to be effective, the regulator will require a more appropriate funding model. The current allocation of funding, and restrictions on how it may be



employed, are too restrictive to sustain and/or expand the expertise found within their current staff; and

5. CEPA, along with other affected stakeholders, should be consulted early and often as the Ministry of Natural Resources begins work on the regulations pursuant to the Bill. We look forward to the development of regulations and to participating in the consultation process.

Conclusions

CEPA would like to reiterate its support for the Bill C-46. We believe it complements our industry's longstanding commitment to the safety of Canadians and the environment that we all cherish and strive to protect. CEPA and its members are dedicated to achieving zero incidents and we work diligently to achieve this through a regime which is first and foremost focused on prevention. CEPA encourages the Committee to endorse this Bill and for the House of Commons to ensure it is passed through the legislative process efficiently. Natural Resources Canada, supported by industry, the NEB and other key stakeholders would then be positioned to develop the regulations pursuant to this Bill.

Our members' low frequency of incidents and demonstrated commitment to effective emergency response and remediation efforts in the event of a release are consistent with the polluter-pay principle, which we strongly endorse. We believe that our industry makes a strong contribution to the social fabric of our nation and has an operating history that we should be proud of. We recognize that there are ever increasing expectations related to pipeline safety and environmental performance and our industry is committed to achieving them. CEPA remains committed to ensuring the existence of a safe, socially and environmentally sustainable energy pipeline industry for Canadians.

We would like to thank the House of Commons Standing Committee on Natural Resources for the opportunity to provide our comments on this important legislation. If you require any further information or have any questions please do not hesitate to contact the undersigned.

Yours sincerely,

Jim Donihee
Acting Chief Executive Officer