Ms. Sheri Young  
Secretary of the Board  
National Energy Board  
517 10th Avenue SW  
Calgary, AB T2R 0A8

26 February 2016

Re: Comments on the National Energy Board’s Notice of Intent to Order Pipeline Companies to Publish Emergency Procedures

Dear Ms. Young,

The Canadian Energy Pipeline Association (CEPA) respectfully submits this letter of comment on the Notice of Intent to Order Pipeline Companies to Publish Emergency Procedures, issued by the National Energy Board (NEB) on 17 February 2016. CEPA and its members herein provide our initial comments to the draft order, which are presented in detail in Appendix A to this letter. These comments are grouped into the three broad themes of Relevance, Clarity, and Implementation/Compliance.

Canadians must have confidence in the ability of industry to effectively respond to an emergency should one occur. The public desire for increased access to emergency management information complements the industry’s commitment, and CEPA’s stated corporate value to enhance transparency throughout all phases of pipeline operations. Member companies view posting of Emergency Response Plans (ERPs) as a step in the right direction to gain public trust and enhance transparency.

To this end, on 23 March 2015, CEPA members began the process of developing a common approach to public disclosure of ERPs. Executives and subject matter experts from member companies have since developed and finalized guiding principles for disclosure of ERPs. The objective of this initiative is to share the appropriate level of information with various stakeholders while taking into account Canadian legal requirements pertaining to public safety and security. Information withheld from the general public will relate to privacy and security of critical infrastructure, but will always be made available to regulators and emergency responders.

The NEB is in a unique position to provide the needed regulatory leadership with respect to the development and implementation of a robust policy for emergency management information disclosure. Consultation on this matter must be wholesome and thorough; as such CEPA requests an extension to the 10-day comment period to allow all interested parties an opportunity to contribute in a meaningful way. Canadians expect excellence and transparency, and time is needed to meet these expectations in a safe and effective manner. We believe a 60-day comment period will ensure the appropriate process and requirements are in place that meet the public’s expectations while also adhering to legal requirements regarding public safety and security.
In addition to extending the comment period, we strongly encourage the NEB to consider the following recommendations as it seeks to finalize the Notice of Intent to Order Pipeline Companies to Publish Emergency Procedures Manuals:

1. Provide clarification on the type and format of emergency management information that is needed and appropriate for the audience(s) the NEB envisions accessing the information;
2. Clarify elements of the draft order as it relates to the information that may be protected from publication, and give consideration to a blanket statement on the nature and reason for withholding protected information rather than individual statements throughout the posted emergency response information; and
3. Adjust the timeframe for implementation and compliance to this order to allow for proper review and update of manuals for public posting. CEPA respectfully requests for the NEB to adjust the date for compliance and implementation to the end of Q3 2016.

Thank you for this opportunity to provide comments. CEPA and its member companies look forward to continuing our dialogue on emergency preparedness and response matters as the NEB moves forward with issuing the Order.

Yours sincerely,

[Signature]
Jim Donihee
Chief Operating Officer
Appendix A

CEPA’s comments on the National Energy Board’s Notice of Intent to Order Pipeline Companies to Publish Emergency Procedures

1. Relevance

Industry recognizes the need to provide those impacted by an emergency related to a pipeline or associated facilities with access to basic information on what to expect and how to protect themselves and others around them in the event of an emergency. CEPA cautions however that posting emergency management documentation, some of which may be lengthy, detailed and complex, may not be the best mechanism to help all stakeholders prepare for such an emergency, let alone fully understand industry’s capability to respond.

In the background to the draft order, the NEB indicates that concerns have been expressed regarding the “clarity and consistency of Manual filing requirements, and regulatory practices used to verify public, municipalities, emergency responders, indigenous peoples and other stakeholders have the information they need, when they need it, for pipeline emergency response”. The draft order itself sets out requirements for companies to publish emergency procedures manuals to provide the “necessary information for first responders”. CEPA urges the NEB to provide clarification on the intended audience(s) for the posted information, and to define the relevance of the information the NEB is asking operators to post relative to these stakeholders’ needs.

2. Clarity

While public posting of emergency management documentation creates transparency, it also identifies explicit, comprehensive and proactive measures pipeline operators take to protect people, property and the environment. Clarity is required so as not to compromise the intent of that documentation.

i) CEPA supports regulatory clarity that aims to strengthen current practice. The distinction between ‘Program’, ‘Manuals’ and ‘Plans’ as it relates to emergency management requires greater clarity. It was understood during the consultative process that the content and transparency of emergency response plans was of significant interest to the public. Information referenced in a company’s emergency response program is not necessarily captured in ERPs.

Herein, CEPA requests clarification on paragraph 3 in the NEB Cover letter which reads as follows:

“...This program contains information that is not set out in the Manuals. Requiring companies to publish Manuals is the first step in making emergency management information available. Shortly, the Board will be engaging pipeline companies on the most effective way to make pertinent information available from pipeline companies Emergency Management Programs, which is not included in the Manuals.” [emphasis added]
Moreover, contents provided in the NEB’s proposed ERP Table of Contents provided at the 5 February 2016 meeting between CEPA member and the Board reflects a combination of site specific and program information. Further refinement of this document, so that it is more in line with the public’s request for information, is necessary. The proposed Order indicates that Emergency Procedures Manuals, rather than ERPs, are required to be published on company websites. CEPA respectfully requests clarification on which documents the Order is specifically referring to.

ii) Security sensitive information is of great concern to CEPA, its members and the public. CEPA has previously provided the NEB with its “Emergency Response Plan (ERP) Public Disclosure Guidelines”, which is used by all member companies.

Focusing on the ‘protected information’, CEPA proposes the following changes to the NEB Order:

*It is ordered that* … companies may protect from publication information:

a. about an identifiable individual, including their name, phone number, email address, mailing address and medical condition;

b. about the vulnerability of particular structures, including methods employed to protect the structures and locations of structures where such disclosure could put critical infrastructure at risk;

c. that could reasonably be expected to result in a material loss or gain to a person affected by publication of the Published Manuals or that could prejudice their competitive position;

d. about a person, such as a daycare, school or hospital, unless that person has agreed to the publication of the information; and

e. that has been obtained pursuant to confidentiality agreements, including information such as, but not limited to, the location of endangered species, archaeological resources, and cultural resources.

Note that with respect to bullet (d) above, CEPA members would consider this statement as the default in that the information would be withheld, however if a party gives permission to publish the information, the company may choose to do so.

iii) The NEB Order also suggests that companies identify the nature of the protected information that is withheld and the reason for withholding that information. CEPA recommends that a blanket statement detailing the nature of protected information that has been withheld, either at the front or back of the posted ERPs, be considered rather than a statement in each area within the document where protected information has been withheld.
3. Implementation/Compliance

The extremely short time line for implementation of this draft Order creates a significant resourcing and execution challenge for member companies. The timeline to implement by 29 April 2016 coincides with a number of existing initiatives for the NEB, which includes, but not limited to:

i) annual review, updating and submission of Emergency Procedures Manuals as requested by the Board by April 30 of each year,

ii) creation and submission of the annual Pipeline Performance Measures as requested by the Board by April 1, and

iii) creation and submission of the annual Accountable Officer Report which is required by April 30 of each year.

The addition of a new process, with short timelines for public posting causes a significant impact on resources at this time. CEPA urges the NEB to adjust the date of implementation and compliance to this Order to the end of Q3 2016, which industry could then commit to as a more realistic timeframe to adequately review and update manuals prior to public posting, and more importantly to overcome/address considerable technology and IT challenges to implementation.