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April 11, 2014

Susan Roe
Manager, Prevention
Environmental Emergency Program
Environment Canada
351 St. Joseph Blvd. 16th floor
Gatineau, QC, K1A 0H3

Dear Ms. Susan Roe

RE: Potential Amendments to the Environmental Emergency Regulations.

On behalf of the Canadian Energy Pipeline Association (CEPA) please accept our comments on the potential amendments to the Environmental Emergency (E2) Regulations.

CEPA members operate 115,000 kilometres of transmission pipeline in Canada. 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 a manner that emphasizes safety, pipeline integrity, and social and environmental stewardship.

CEPA's member companies are already captured by and complying with various aspects of the existing E2 regulations and are in support of amendments that would further the objectives of the proposed amendments. The objectives, as outlined by Environment Canada (EC), are aimed at:

1. Improving the protection of environment and human health;
2. Improving the clarity and effectiveness of the E2 Regulations; and
3. Harmonizing E2 Regulations with existing laws and regulations and streamline administrative requirements.

The objectives align with the transmission pipeline industry's commitment to excellence in emergency response and pipeline safety. Safeguarding people and the environment is paramount to both industry and government. In order to ensure these objectives are achieved, further amendments in the following areas are needed;

1. Clarification of the application of the E2 Regulations;
2. Further efforts are needed to harmonize E2 regulations with existing laws and regulation to reduce administrative burden while maintaining high standards for environmental and human health and safety; and
3. Development of appropriate compliance and enforcement tools.

Clarification of the Application of the E2 Regulations

Definition of Container - CEPA's understands that EC intends that the E2 regulations will apply to storage vessels, and that transmission pipeline would not fall under this definition. We recommend that transmission pipelines be specifically exempt to clarify the intention of the regulation. This could be done similarly to how the *Transportation of Dangerous Goods Act*, section 3(4)(b) exempts commodities transported by a pipeline governed by the *National Energy Board Act*.

Implementation Period - CEPA recognizes the need for timely implementation of the proposed amendments; however, industry members require sufficient time in order to comply with the proposed amendments. CEPA recommends the amendments be phased in over a two year time period.

Subject to Date - Another area where further clarification is needed relates to the new requirement to provide the date a facility became subject to the E2 Regulations for each substance. CEPA understands the importance of this new requirement for tracking the timeliness associated with reporting however, the amendments should recognize that self-reporting typically has different compliance implications. For example, under directive 019, the Alberta Energy Regulator (AER) will not employ its enforcement provisions when a licensee identifies a noncompliance and the non-compliance is addressed and corrected within the agreed upon time frame. In order to continue to encourage self-reporting, a company should not be held liable for past non-compliance as a result of a new reporting requirement. This could be achieved by adding a clause to the amendments to clarify that information gathered will not be used for the purposes of enforcement of other reporting requirements.

Further efforts are needed to harmonize E2 regulations with existing laws and regulation to reduce administrative burden while maintaining high standards for environmental and human health and safety.

Harmonization across regulators is important for all parties to insure that there are clear requirements that increase compliance, resulting in better protection of the environment and human health and safety. CEPA members are concerned that non-harmonized and duplicative regulations will result in additional costs and increases in administrative burdens. Differences in reporting deadlines, verification requirements, reporting thresholds, coverage and other reporting elements are creating uncertainty and inefficiencies within companies. These inefficiencies increase as various jurisdictions continue to develop and implement differing reporting and regulatory systems.

The need for harmonization and streamlining of requirements was recognized as a priority for the proposed amendments. In order to help achieve this objective, CEPA recommends the following be addressed in the proposed amendments:

1. Transmission pipeline companies may operate multiple sites that have identical operations. CEPA recommends that EC not require separate training exercises and reporting requirements for common, non-site specific requirements (e.g. communication protocols).
2. There is a need to have a clear separation between process and equipment. CEPA recognizes the need for regular testing of the equipment associated with each individual site in order to ensure a high level of environmental protection and human health and safety standards. The process used to ensure these objectives are met are equally as important, however, testing procedures on identical sites is redundant and does not add any increased protection.

The *National Energy Board Act* and the *Canadian Oil and Gas Operations Act* were not named as legislation that the E2 regulation should be harmonized with. The *National Energy Board Act* and the *Canadian Oil and Gas Operations Act* govern pipelines and include comprehensive emergency response requirements. CEPA expects that the draft version of the amendments will include references to these Acts for the purposes of harmonization of requirements.

In order to achieve the objective of harmonized and streamlined requirements, EC could apply a one window approach to regulatory requirements where duplication is identified. For example, reports for *Directive 071* (AER) would meet the reporting requirements outlined in the Environmental Emergency Response Regulations. If licensees' were able to submit one report to both regulators it would increase the harmonization of requirements while maintaining a high standard of human safety and environmental protection. Primary regulators are the best placed jurisdiction for ensuring that appropriate safety measures are in place and that testing and reporting are done at appropriate frequencies.

Alternatively, EC could accept incorporation by reference where licensees are already subject to a primary regulator, such as the NEB. This process is incorporated into the *Transportation of Dangerous Goods Act*, where exemptions are provided for regulatory requirements that are already being imposed by the NEB.

Appropriate compliance and enforcement tools

We encourage EC to be clear in its enforcement policy. A range of enforcement tools should be used in order to ensure that the objective of increasing human health and the protection of the environment is achieved. Amendments should be made to reflect the availability of Administrative Monetary Penalties (AMPs) as an additional tool in managing non-compliance by all parties. This is consistent with the changes made to other federal environmental legislation such as the *Canada Water Act*.

CEPA has made pipeline integrity and emergency response a priority. In doing so, the Canadian pipeline industry is implementing the CEPA Integrity First[®] program. The CEPA Integrity First[®] Program has been developed by the industry as a management system approach that enables CEPA members to strengthen the pipeline industry's performance, communication and engagement by jointly developing and individually applying best practices and reporting on our performance record. CEPA members are committed to strive for zero incidents and to minimize adverse impacts to people, property and the environment.

Pipeline integrity involves practices and processes that pipeline operators undertake to ensure that crude oil and natural gas are transported safely and within the intended operating parameters. CEPA is able to meet with EC to discuss the role of CEPA Integrity First[®] in improving pipeline safety.

Summary

The objectives outlined by EC regarding the potential amendments to Environmental Emergency Response Regulations are aligned with the pipeline transmission industry's commitment to excellence in emergency response and pipeline safety. In order to achieve these objectives CEPA recommends amendments to the current proposal that will:

1. Clarify the application of the regulations, particularly the definition of "container";
2. Enhance harmonization and streamline the regulatory process; and
3. Ensure that appropriate compliance and enforcement tools are in place.

In closing, CEPA appreciates the opportunity to provide comments on the proposed amendments to the Environmental and Emergency Response Regulations. These comments represent feedback representative of the transmission pipeline industry. Accordingly, EC can expect to receive feedback from CEPA member companies raising more specific issues that members have noted. Our members have committed to a goal of zero incidents affecting health, safety and the environment. CEPA will continue to work with its members to continually advance leading industry practices and ensure safety and the environment are always at the core of what we do in the public interest. Please contact the undersigned if you have any questions or require further elaboration of our comments.

Yours Truly



Ziad Saad
VP Safety and Sustainability