

Ontario Releases New Environmental Guidelines for Oil Pipelines



On Aug. 11, 2016, the Ontario Energy Board (OEB) issued updated Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario to ensure that the roles and obligations for the Crown's duty to consult process are better defined.

Under the revised Guidelines' enhanced duty to consult protocol, the Ministry of Energy will determine, early in the pipeline project planning process, if the proposed project triggers a duty to consult. If so, the Ministry will identify any Indigenous communities whose rights are potentially adversely affected by the proposed project and assess the extent of necessary consultation.

The consultation activities to be conducted by the proponents include:

- Meetings with Indigenous communities to share the information required for communities to understand and assess the potential impacts on rights;
- Responding to questions and concerns raised by Indigenous communities and keeping the Crown apprised of rights assertions by communities;
- Maintaining a complete record of all consultation activities; and
- Discussing options to accommodate communities in respect of adverse effects on Aboriginal or treaty rights.

The seventh edition of the Guidelines is designed to provide direction to the applicant in the preparation of a project's Environmental Report. Although the Guidelines aren't statutory regulations or a rule or a code issued under the OEB's authority, they do represent current knowledge and practice concerning matters that should be considered when making an application for OEB approval of hydrocarbon facilities development.

The Guidelines explain how any party making an application to the OEB can identify, manage and document environmental impacts. They're organized in six chapters:

1. Introduction;
2. General Planning Principles;
3. Public Consultation with a separate section on Indigenous consultation;

4. Route and Site Selection;
5. Impact Mitigation; and
6. Implementation and Monitoring.