

NEB MODERNIZATION DISCUSSION PAPER #6 SAFETY AND ENVIRONMENTAL PROTECTION

Question #1 - What are your views with respect to the existing compliance and enforcement tools available to the NEB for safety and environmental protection?

a. What are your views as to adherence to these tools?

As a regulator, Metro Vancouver acknowledges the need to apply a range of compliance and enforcement tools, and that the application of these tools may need to escalate depending on the situation. The use of these tools is greatly enhanced when clear indicators and measures of performance are established.

Focusing specifically on discharges to the environment (i.e., air pollutant emissions, waste water discharges), the NEB compliance and enforcement tools (Act, regulations, relevant codes and standards, conditions and commitments) for a given project often do not provide the same level of detailed emissions limits, operating restrictions and reporting requirements as a provincial or regional operating permit. This issue is particularly apparent for NEB regulated “point source” facilities such as tank farms and marine terminals. As a result, NEB regulated facilities may have more vague or loosely specified compliance requirements than those regulated at the provincial or regional level. As a result, the credibility of NEB regulation of these facilities may be brought into question, regardless of the adherence of regulated entities to the NEB requirements.

b. What are your views as to the current use of these tools to advance risk management and any barriers or remedies that would enhance safety?

The efficacy of NEB regulation would be enhanced by the introduction of construction, operating and decommissioning permits or authorizations that more clearly and completely specify facility-specific emissions, discharges, management practices, and requirements related to operating, monitoring and reporting for each portion of a project. The credibility of these permits or authorizations would

be further enhanced by the explicit engagement of relevant provincial and regional authorities in the development and enforcement of these permits.

c. What are your views as to the safety and environmental performance reporting that is currently done and areas for improvement?

As indicated above, explicit engagement of relevant provincial and regional authorities in the development and enforcement of facility permits would also simplify reporting requirements, and maximize engagement of local stakeholders in the ongoing oversight of facility construction, operations and decommissioning.

For NEB-regulated companies, reports should be shared automatically with local authorities (which include local government, first nation and regional authorities) responsible for the jurisdiction through which the energy utility passes. In the absence of this, issues that may affect that jurisdiction are not identified. Many local authorities may not even be aware the information is available or where to find it, the local authority is first on scene in conjunction with the utility operator, thus any information on possible risk is of vital interest to the local authority.

The discussion paper makes some mention of the NEB's intention "to improve public access to this information". Transparency in the regulatory process, including availability of permits and authorizations, compliance reports, monitoring data, and ongoing documentation to demonstrate compliance with regulatory documents and conditions, is of increasing importance.

d. Can the process by which the NEB evaluates compliance and adherence to conditions be made more efficient? If so, how?

As indicated in (a) above, the NEB conditions themselves are often too vague to provide a high level of assurance that facilities will operate within emissions or operation limits that are protective to the specific local environment around the facilities. Further, the NEB may not be best equipped to evaluate compliance and adherence to conditions for each facility that makes up a large and complex project. Explicit engagement of relevant provincial and regional authorities in the development and enforcement of facility specific permits would improve efficiency and effectiveness of compliance evaluation.

Question #2 - Are there additional initiatives the NEB could undertake to help promote a positive culture for safety and environmental protection?

Effective engagement with local authorities will assist in buy-in for the processes and safeguards in place, regular meetings by NEB and Regulated utility operators with the local authority are important and generally do not appear to happen in most cases except during the initial consultation phase prior to construction or operation of the energy infrastructure.

Question #3 - What are your views on monitoring committees?

Based on the description in the Discussion Paper, this question appears to be related to Indigenous Monitoring Committees. These committees may be useful but should not be stand alone and restricted to indigenous peoples. All affected stakeholders should be involved as part of more comprehensive and inclusive monitoring committees, which would include provincial and local government, first nations, and private parties through or over whose land the energy utility passes.