

6-0 Compliance Best Practices



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6-1: Underground Infrastructure Owner Damage Prevention Program

Practice Statement: Underground facility owners should develop, implement and maintain a damage prevention program for the purpose of anticipating and preventing damage to its underground infrastructure.

Practice Description: Damage prevention programs are intended to reduce the preventable damage to underground infrastructure. Although the content of damage prevention programs may vary according to the facilities and operations of individual owners, the damage prevention program should include elements pertaining to:

- Risk identification and assessment;
- Public awareness;
- Measurement of effectiveness; and
- Continuous improvement.

6-2: Public Education

Practice Statement: Public education programs are used to promote compliance.

Practice Description: The CCGA is charged to promote comprehensive and appropriate programs to educate all stakeholders about the existence and content of the damage prevention practices, laws and regulations. This education will be documented and published. This is not meant to discourage individual stakeholders from providing educational programs.

6-3: Enforcement Education

Practice Statement: Mandatory education is considered as an alternative or supplement to penalties for offenders of the damage prevention laws and regulations.

Practice Description: Once a violation of the damage prevention best practices, laws or regulations has occurred, mandatory education is an effective alternative. Mandatory education as an enforcement tool promotes compliance with damage prevention best practices.

6-4: Incentives

Practice Statement: Damage prevention programs include incentives to promote compliance with laws, regulations and best practices.

Practice Description: Incentives can include, but are not limited to, ease of access to notification service system, notification service membership and participation considerations, representation on notification service boards, reasonable enforcement of regulations, safety and liability protection, preferred access to contract designers and contractors for bidding, and insurance and overall cost benefits.

Safety and Liability Protection: Demonstrated adherence to the Best Practices will provide increased safety and liability protection for all industry members.

- Preferred Access to Design and Administration Consultants: To provide incentive to consultants who demonstrate compliance to Best Practices, it is recommended that Municipalities and others who employ design and Administration Consultants ensure they build a process into their contract awarding process which accomplishes this.

This Process may include such items as:

- Appropriate use of SUE
- Appropriate use of pre-engineering process encompassing notification of Utilities, drawing circulation and tender document inclusions
- Vetting contractors through a preferred access process
- Inclusion of appropriate contract language that recognizes the CCGCA's Best Practices and requests compliance
- They will also ensure that their contracts include incentives and/or penalties regarding performance requirements.
- Preferred Access to Contract Bidding: To provide incentive to excavators to demonstrate compliance to Best Practices, it is recommended that Municipalities and others who hire excavation contractors ensure they build a process into their contract awarding process which accomplishes this. They will also ensure that their contracts include incentives and/or penalties regarding performance requirements.
- Insurance Benefits: To provide incentive to follow best practices, it is recommended that the insurance companies develop a system which allows them to provide financial incentives to companies with a demonstrated positive safety culture.
- Reasonable Enforcement of Regulations: Reasonable enforcement of regulations refers to actions by enforcement authority officials and enforcement processes, both of which aim to fairly arrive at rational outcomes, such as education and penalties that correspond to the gravity of the violation and demonstrated safety culture, without imposing unnecessarily high transaction costs on any participant, including the enforcement authority.
- Cost Benefits: best practices are always thought to be the best alternative and as such have an inherent cost benefit

6-5: Penalties

Practice Statement: Compliance programs include penalties for violations of the damage prevention laws or regulations.

Practice Description: Within the context of Regulations, there are specific provisions for enforcement for failure to comply with the damage prevention laws and regulations.

A penalty system includes education as an alternative or supplement to other penalties (see above).

A penalty system also uses a tiered structure to distinguish violations by the level of severity or repeat offences (e.g. Legal Orders, Tickets, Administrative Penalties, Prosecution Fines, Imprisonment).

A penalty system does not allow any violator or class of violators to be shielded from the consequences of a violation (i.e. all stakeholders should be accountable).

6-6: Enforcement by Existing Authority

Practice Statement: An authority is specified through statutes and given the resources to enforce the law.

Practice Description: Enforcement authorities have the resources to enforce the laws and regulations. Experience has demonstrated that enforcement of the laws and regulations that did not identify a specific authority have not been effective.

Characteristics of such an authority include:

- A process for receiving reports of violations from any stakeholder;
- An operating budget source other than fine revenue, excluding fines as a source of income for the authority;
- Stakeholder involvement in periodic review and modification of enforcement processes;
- Resources to respond to notifications of alleged violations in a timely manner;
- A method of investigating alleged violations prior to issuing a notice of probable violation;
- An initial informal means of contesting a notice of violation; and
- A published violation review process and violation assessment considerations.

6-7: Structured Review Process

Practices Statement: A structured review process is used to impartially adjudicate alleged violations.

Practice Description: It is important that review processes are constructed to avoid abuses of authority and prevent any individual, industry, stakeholder or agency from exercising undue power or influence over the process. A structured review process must be outlined in writing which indicates:

- who receives reports of alleged violations,
- who investigates the reports,
- possible outcomes of the investigation,
- who conducts 1st tier (informal) hearings,
- possible outcomes of 1st tier hearings, and
- appeal rights following a 2nd tier (formal) hearing.

PROVINCIAL/FEDERAL REGULATIONS & REGULATORS

Jurisdiction	Regulations	Regulators
Alberta ABCGA	<ul style="list-style-type: none"> ➤ Canada Labour Code and Canada Occupational Health and Safety Regulations ➤ Alberta Gas Distribution Act ➤ Alberta Mines and Minerals Act and Alberta Exploration Regulation ➤ Alberta Municipal Government Act ➤ Alberta Occupational Health and Safety Act, Alberta Occupational Health and Safety Regulation and Alberta Occupational Health and Safety Code ➤ Alberta Pipeline Act and Alberta Pipeline Rules ➤ Alberta Safety Codes Act and Alberta Electrical Utility Code ➤ National Energy Board Pipeline Damage Prevention Regulations - Authorizations and National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies 	<ul style="list-style-type: none"> ➤ Alberta Occupational Health and Safety ➤ Alberta Energy Regulator ➤ National Energy Board
Atlantic Canada ATLCGA	<p><u>New Brunswick</u></p> <ul style="list-style-type: none"> ➤ Regulation 91-191 Under Occupational Health & Safety Act, Section 180 (1) ➤ Occupational Health & Safety Act – Enforcement, Section 47 (1) ➤ Pipeline Act, 2005 Section 29 Nova Scotia ➤ Occupational Safety General Regulations, N.S. Reg 53/2013: Underground utility lines, Section 153 ➤ Pipeline Regulations, N.S. Reg. 66/98 as amended by N.S. Reg 199/2004, Part XIII – Protection of Pipelines, Sections 58 and 59 	<ul style="list-style-type: none"> ➤ WorkSafeNB ➤ New Brunswick Energy and Utilities Broad ➤ Nova Scotia Department of Labour and Advanced Education ➤ Nova Scotia Utility and Review Board ➤ National Energy Board

Jurisdiction	Regulations	Regulators
British Columbia BCCGA	<ul style="list-style-type: none"> ➤ Canada Labour Code and Canada Occupational Health and Safety Regulations ➤ National Energy Board Act and National Energy Board Pipeline Crossing Regulations, Parts I and II (PCR I&II) ➤ Workers Compensation Act ➤ Occupational Health and Safety Regulation ➤ Oil and Gas Activities Act, Pipeline Regulation, Pipeline Crossing Regulation 	<ul style="list-style-type: none"> ➤ BC Safety Authority ➤ WorkSafeBC ➤ BC Oil and Gas Commission ➤ National Energy Board
Manitoba MCGA	<ul style="list-style-type: none"> ➤ Manitoba has The Gas Pipeline Act, Regulation 140/92 (recently amended with M.R. 213/2014) ➤ Workplace Safety and Health 217/2007, Part 26 ➤ National Energy Board Pipeline Damage Prevention Regulations - Authorizations and National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies 	<ul style="list-style-type: none"> ➤ Public Utilities Board ➤ Manitoba Workplace Safety & Health ➤ National Energy Board
Ontario ORCGA	<ul style="list-style-type: none"> ➤ ON Regulations 22/04 –Electrical Distribution Safety,subsection 113(1) of Part V111of Electricity Act, 1998 ➤ ON Regulations 210/01 – Oiland Gas Pipeline Systems –made under the TSSA 2000 ➤ OH&S Act & Regulations (R.S.O. 1990 chapter 0.1).Construction Projects (O. Reg 213/91) S228.1 	<ul style="list-style-type: none"> ➤ Technical Standards & Safety Authority (TSSA) ➤ Electrical SafetyAuthority (ESA) ➤ Ministry ofLabour (MOL) ➤ National EnergyBoard

Jurisdiction	Regulations	Regulators
Quebec Info- Excavation	<ul style="list-style-type: none"> ➤ Code de sécurité pour les travaux de construction – Quebec Safety Code for the construction industry (<i>Fines mentioned in rules 236 & 237</i>) <ul style="list-style-type: none"> ○ 3.15.1 – <i>Diggings, excavations and trenches</i> ○ 3.18.1 – <i>Demolition (work with high risk)</i> ➤ National Energy Board Pipeline Damage Prevention Regulations - Authorizations and National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies 	<ul style="list-style-type: none"> ➤ CSST (Commission de la santé et de la sécurité du travail) ➤ National Energy Board
Saskatchewan SCGA	<ul style="list-style-type: none"> ➤ The Saskatchewan Employment Act ➤ The Occupational Health and Safety Regulations, 1996 ➤ The Pipelines Act, 1998 ➤ The Power Corporation Act ➤ The SaskEnergy Act ➤ The Saskatchewan Telecommunications Act 	<ul style="list-style-type: none"> ➤ Ministry of Labour Relations and Workplace Safety, Occupational Health and Safety Division ➤ Ministry of the Economy ➤ National Energy Board
Federal CCGA	<ul style="list-style-type: none"> ➤ National Energy Board Act ➤ National Energy Board Onshore Pipeline Regulations ➤ National Energy Board Pipeline Damage Prevention Regulations - Authorizations and National Energy Board Pipeline Damage Prevention Regulations - Obligations of Pipeline Companies 	<ul style="list-style-type: none"> ➤ National Energy Board

