

ROW Usage by Landowner

Purpose	This purpose of this document is to share learnings of Operators relating to landowner usage of liquids pipeline rights-of-way (ROW).
Reference	<p>49 CFR 195.412 “Inspection of right-of-way and crossings under navigable waters”</p> <p>49 CFR 195.440 “Public awareness”</p> <p>49 CFR 195.442 “Damage prevention program”</p>
Appendices	<ul style="list-style-type: none"> • Appendix A: Forms and Reports • Appendix B: Other Documents
Related Toolbox Topics	<ul style="list-style-type: none"> • ROW Patrol and Response (Air/Ground) • Unauthorized Activities, Encroachment, and Excavation: Management, Response, and Correspondence • Crossing and Encroachment Agreements and Correspondence

Easement Agreements:

Often a landowner may seek to utilize a piece of property which includes a pipeline ROW. In many cases the easement agreement may specifically state what actions are allowed to be performed on the pipeline ROW. However, easement agreements can be written in a number of different ways and may not always include specific restrictions or allowances for activity or materials on the ROW. Below are some items to consider including in new or amended easements or to encourage adherence under existing agreements for safety reasons.

CONSIDERATIONS: Easement Restrictions/Allowances

- Clearly defined restrictions and terms within the easement agreement
- Clearly defined allowances and terms within the easement agreement
- Older easements may lack specifics and may require the operator to defer to its encroachment guidelines or safety tolerances when interpreting what is allowed/restricted
- Type of activity or use of land in which the easement exists (i.e. farmland, pasture, commercial, residential)

Establishing Criteria:

Operators may wish to establish a set of criteria for materials and activities which may be allowed/restricted within their easement. An Operator may be able to identify certain materials and activities that are permissible in the ROW, if done to the satisfaction of the Operator. Considerations include the following:

CONSIDERATIONS: Materials/Activities Potentially Allowed Within The Easement

- Shallow post wire fence
- Gate access for fences which surround the ROW
- Smaller shrubs and bushes which do not exceed XX ft in mature height (or that can be acceptably pruned to this height)
- Flexible paved surfaces (i.e. asphalt)
- Authorized activities (i.e. farming, excavation, gardening)

CONSIDERATIONS: Materials/Activities Potentially Restricted Within The Easement

- Solid surface fencings (i.e. stucco, brick, or rock) which obstruct view
- Deep set fence posts
- Large trees and shrubs
- Concrete surfaces with limited to no green space
- Unauthorized excavation
- Burning of trash/materials
- Building of structures

Educating Landowners:

Operators may find it useful to create and distribute educational materials to landowners. In these educational materials, Operators can include their desired method for coordinating proper use of the ROW. A key component to successfully coordinating that use is to make the landowners aware of the contact information for Company personnel. Landowners can use this information to request permission for a proposed use of the Company ROW.

1 Appendix A: Forms and Reports

This appendix contains industry examples of forms and reports related to the topic.

1.1 Example of Landowner Information on the Use of Company Easements

As a resident living along our pipeline, you may wonder about any restrictions on the use of the easement you share with [Company]. The surface easement along a pipeline is called a right-of-way (ROW). The following requirements related to the ROW, established to ensure the safety of the pipeline, are listed below. As always, laws and regulations may change regarding these restrictions, so please feel free to contact your local ROW representative or call the Corporate Office at [Telephone Number].

1. Yards, play areas and normal cultivation are allowed within the easement provided the excavated depth does not exceed 12 inches.
2. No mechanized ditching or excavation shall be allowed within five [5] feet of the extremities of the pipelines. No excavation or construction is permitted over [Company]'s pipeline(s) or within its right of way without a [Company] representative being present. Sub-grading, grading, and placement of fill over [Company]'s pipeline(s) will require approval of [Company]'s field representative as to method and extent.
3. Full access to the pipeline(s) must be maintained and available at all times. Stockpiling of fill, including spoil or top soil over the pipeline(s) is not permitted, unless approved in writing by the [Company] representative.
4. Under no circumstances shall water be impounded on the pipeline(s) right of way.
5. [Company] does not provide assurance that its permanent line markers are positioned directly over its pipeline(s). It is a state law that prior to any mechanized excavation, you must call for assistance in locating underground utilities. If you will be digging on or near a [Company] ROW, you must call 811 to help you locate our pipeline.
6. If the approximate location of the pipeline(s) is required, steel probe bars, shovels, and electrical sensing devices may only be used by [Company]'s field personnel.
7. Original vegetation on [Company]'s ROW shall not be disturbed except in areas of approved construction and approved equipment crossings.
8. Permanent structures, such as buildings, are not permitted on the ROW.
9. No fences or temporary structures shall be allowed in the ROW. No material may be stored on the ROW.
10. No heavy equipment or vehicles may be parked on the ROW. No material may be stored on the ROW.
11. Only low growing ornamental type shrubbery with a maximum expected height of four [4] feet shall be allowed within the ROW. In addition, no pipeline marker shall be obscured from public view.
12. Relocation or removal of [Company]'s pipeline markers shall not be permitted without the approval of a [Company] representative. Pipeline markers are made unusable or damaged shall be repaired or replaced at the expense of the party responsible for the damage.

13. The burning of trash, debris, etc. shall not be permitted within [Company]'s ROW.
14. Fences shall be constructed with gates sufficiently large enough to allow [Company]'s personnel and equipment the right of ingress and egress. Fence posts shall be installed at least five [5] feet to the side of any pipeline, with the approval of the field representative. [Company]'s field representative must locate the pipeline(s) prior to fence installation.
15. Any erosion control measures within the ROW including diversion dikes, sediment traps, silt fences, gravel outlets, and emergency spillways will require approval of the [Company]'s representative, as to the equipment and method.

1.2 Example of Landscaping Standard

No trees of any kind, and no shrubs whose mature height exceeds four (4) feet should be planted on the ROW. It has been proven that trees and shrubs exceeding four (4) feet obstruct the inspection of the ROW, and that their roots damage the protective coatings that are applied to the pipeline. Pipeline ROWs can be attractively landscaped using this standard and the plants listed below.

Accepted Landscaping Material:

Abelia	Evergreen Bittersweet	Pygmy Barberry
Adam's Needle Yucca	Forsythia	Reed Grass
Alexander Laurel	Gardenia	Reeves Skimmia
Aucuba	Goldflower	Repanden Japanese Holly
Azalea	Harland Boxwood	Rockspray Cotoneaster
Bar Harbor Juniper	Helleri Holly	Rosemary
Beautyberry	Hosta	Roses
Blue Pacific Juniper	Hydrangea	San Jose Juniper
Blue Rug Juniper	Ivy	Sargent Juniper
Bush Cinquefoil	Japanese Flowering	Shore Juniper
Carissa Holly	Quince	Slender Deutzia
Coastal Leucothoe	Japanese Pieris	Snowhill Hydrangea
Compacta Holly	Japanese Skimmia	Spirea-Anthony Waterer
Cotoneaster	Kalm St John's Wort	Spirea-Hardhack
David Viburnum	Kingsville Japanese Holly	Spirea-Japanese
Day Lilies	Korean boxwood	Spirea-Japanese White
Drooping Leucothoe	Liriope	Spirea Margarita
Dwarf Abelia	Most Perennial Flowers	Spirea-Meadowsweet
Dwarf Barberry	Nana	Spirea-Reeve's
Dwarf Boxwood	Nandina	Spirea-Striped
Dwarf Fothergilla	Oregon Holly-Grape	St. jonswort
Dwarf Gardenia	Ornamental Grass	Stokes Japanese Holly
Dwarf Cypress	Pampas Grass	Tamarix Juniper
Dwarf Horned Holly	Parison Juniper	Warty Barberry
Dwarf Japanese	Pennisetum	Winter Daphne
Euonymus	Pittosporum-Nana	Winter Jasmine
English Lavender	Proststrate Juniper	Yunnan Honeysuckle

Prohibited Plants on Right-of Way

American Holly	Boxwood	Cryptomeria
Anise	Burfordi Holly	Cypress
Arborvitae	Camellia	Deodar Cedar
Bamboo	Cherry Laurel	Dwarf Burfordi Holly
Blue Atlas Cedar	Chinese Holly	Elaeagnus
Blueberry	Cleyera Holly	English Holly
Bottlebush	Crape-Myrtle	Evergreen Euonymus
Fig	Osmanthus Holly	Spirea-Hoary
Hemlock	Perny Holly	Spirea-Korean
Hetzi Holly	Pfitzer Juniper	Spirea-Snow Garland
Hollywood Holly	Pittosorum-Tobira	Spirea Thunberg
Japanese Holly	Privet	Spirea-Vanhoutte
Laurel	Red Tip Photinia	Spirea-Veitch
Ligustrum	Repanden Holly	Spirea Wilson
Longstalk Holly	Roundleaf Holly	Sweet Bay
Needle Point Holly	Sasanqua Camellia	Sweet Mockorange
Lusterleaf Holly	Spirea-Big Nippon	Sweet Shurb
Nellie R Stevens	Spirea-Bridalwreath	Tea Olive
Oleander	Spirea-Garland	Viburnum

Please do not obstruct the Pipeline Markers. They are for your safety, and are required by the U.S. Department of Transportation (DOT) Pipeline Safety Regulations.

Pipeline Safety ROWs are an ideal place for vegetable gardens, because of the open space and sunlight.

Always use the “One Call System” and call before you dig to have your underground utilities located. You should call when you are doing any type of landscaping in or around the pipeline ROW. This work includes: changing the grade of your property, planting shrubs, installing a fence, or irrigation system. In addition to the Landscaping Guidelines, [Company] prohibits any permanent structures (i.e. storage buildings) or the impounding of water across the ROW. Should you have any questions, please contact [Company Representative] with [Company] at [Telephone Number] for further information.