



Memorandum of Understanding

Between:

Canada-Newfoundland and Labrador Offshore Petroleum Board
&
Environment Canada

Hereinafter referred to as "the Participants"

1.0 PREAMBLE

This **MEMORANDUM OF UNDERSTANDING** (hereinafter, "the MOU"), between:

**CANADA-NEWFOUNDLAND AND LABRADOR OFFSHORE
PETROLEUM BOARD** (hereinafter, "the Board") and

ENVIRONMENT CANADA (hereinafter "EC").

WHEREAS the Board is the independent joint agency of the Governments of Canada and Newfoundland and Labrador responsible for the regulation of petroleum-related activities in the Canada-Newfoundland and Labrador offshore area;

WHEREAS the Board has responsibility for administering the provisions of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* (the Accord Acts);

WHEREAS the *Department of the Environment Act* sets out the powers, duties and functions of the Minister of the Environment with respect to the preservation and enhancement of the quality of the natural environment, providing meteorological services, and coordinating policies and programs to achieve environmental objectives. EC discharges this mandate and the Minister's mandate under all relevant Acts on behalf of the Minister of the Environment;

WHEREAS pursuant to the *Canadian Environmental Protection Act, 1999* (CEPA 1999) the Government of Canada has the duty to:

- i. take or require that reasonable remedial measures are taken to protect the environment, as warranted,
- ii. establish nationally consistent levels of environmental quality,
- iii. protect the environment from the risk of any adverse effects of the use and the release of toxic substances, to endeavor to act expeditiously and diligently to assess whether existing substances or those new to Canada are toxic or capable of becoming toxic; and,
- iv. enforce CEPA (1999) and its regulations in a fair, predictable and consistent manner.

WHEREAS the Minister of the Environment is the overall lead for the administration and enforcement of subsection 36(3) of the *Fisheries Act* (FA), which prohibits the deposit of any deleterious substance into water frequented by fish and subsections 38(5) to (7)



which mandate reporting and remedial measures in response to such an unauthorized deposit;

WHEREAS the Minister of the Environment is responsible for the administration and enforcement of the *Migratory Birds Convention Act, 1994* (MBCA), which implements the Migratory Birds Convention by protecting and conserving migratory birds – as populations and individual birds – and their nests. The Act also prohibits the deposit of substances that are harmful in areas or waters frequented by migratory birds;

WHEREAS the Minister of the Environment is responsible for the administration and enforcement of the *Canada Wildlife Act* (CWA), which provides for the conservation and study of wildlife and the creation of National Wildlife Areas;

WHEREAS the *Species at Risk Act* (SARA), assigns the Minister of the Environment powers and duties to prevent wildlife species from becoming extinct, to secure the necessary actions for their recovery (i.e. protecting their critical habitat) and to encourage management of other species to prevent them from becoming at risk;

WHEREAS pursuant to the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) the Canadian Environmental Assessment Agency is responsible for administering the Act which focuses on designated projects and their environmental impact on areas of federal jurisdiction and as a result of the federal decisions associated with the designated project. CEAA 2012 also has provisions for projects carried out on federal lands. EC supports the implementation of CEAA 2012 primarily with scientific analysis and advice as part of environmental assessment reviews;

WHEREAS the Minister of Environment supports the Board's responsibilities under the Accord Acts by providing the Board with meteorological expertise and science advice related to the preparedness and response to and remediation of pollution incidents (e.g. chemical or hydrocarbon spills);

WHEREAS the Participants intend to cooperate to ensure effective co-ordination, and to avoid duplication of efforts with respect to the regulations and management of petroleum-related activities and environmental conservation and protection in the Canada-Newfoundland and Labrador offshore area;

WHEREAS the Participants intend to identify priorities and/or emerging issues that may strengthen regulation of offshore petroleum activities, including continued advancement of policy, regulatory standards, industry best practice, and science and technology; and

WHEREAS subject to legislative and regulatory requirements, relevant proprietary rights and confidentiality obligations owed to any third parties, the Participants intend to promote information sharing, dissemination, and knowledge transfer, between themselves, where permissible, with industry, academia, other organizations, and the public at large.

THEREFORE, the Participants agree to the following MOU:

2.0 AUTHORITY & PURPOSE

2.1 Pursuant to Section 46 of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and of the *Canada-Newfoundland and Labrador Atlantic*



Accord Implementation Newfoundland and Labrador Act the Board has entered into this MOU.

- 2.2** This MOU supports and promotes the effective coordination and planning of activities of mutual interest with respect to each Participant's regulatory oversight related to petroleum-related activities in the Canada-Newfoundland and Labrador offshore area. The intent of this MOU is to facilitate and promote protection of the environment, preparedness and response to pollution incidents and conservation of migratory birds and species at risk during the exploration, development, production, decommissioning and abandonment phases of offshore petroleum-related activities.
- 2.3** It is not intended, nor will it be interpreted, that this MOU creates, imposes, or implies any statutory or legal duties, rights, obligations, liability, claims, or actions on or against the Participants. It is further not intended, nor will it be interpreted, that this MOU gives to the Participants any power or authority that they do not otherwise hold nor does it relieve, exclude, or prohibit the Participants from performing any duties that they are responsible for under the applicable statutory authority by which they operate. For greater certainty, this MOU is not legally binding.

3.0 OBJECTIVES

This MOU builds on the established roles and responsibilities of the Participants and provides a mechanism for the Participants to work cooperatively towards objectives of mutual interest including the:

- 3.1** efficient and effective use of available resources to address environmental protection and conservation issues and activities, including regulatory monitoring and enforcement;
- 3.2** identification of priorities, opportunities and/or approaches which may affect the regulation of offshore oil and gas resources and address gaps in policy, regulatory regimes and science and technology programs;
- 3.3** facilitation of the best use of knowledge and of jurisdictional authorities to ensure that offshore petroleum-related activities proceed in accordance with legislative and regulatory regimes; and
- 3.4** promotion of information sharing, dissemination, and knowledge transfer between the Participants and, where permissible, with industry, academia, other organizations, and the public at large, in accordance with legislative and regulatory requirements, relevant proprietary rights, and confidentiality obligations owed to any third parties.

4.0 PRINCIPLES OF COOPERATION

The following principles will guide the actions of the Board and EC:

- 4.1 Sustainable Development:** Both Participants recognize that development shall be such that it meets the needs of the present generation without compromising the ability of future generations to meet their own needs. Such development shall be



viewed within a social, environmental and economic context and with weight given to a long term view and considered collectively in decision making.

4.2 Pollution Prevention: Both Participants promote the environmental and economic benefits of processes, practices and materials that avoid or minimize the creation of pollutants and wastes.

4.3 Precautionary Principle: Both Participants promote wide application of the precautionary approach to the conservation, management, and exploitation of resources, in order to protect these resources and preserve the environment. The uncertain and incomplete nature of science relating to the environment invokes the precautionary approach where it is necessary to exercise caution.

4.4 Ecosystem Approach: Both Participants recognize the importance of an ecosystem approach to management which places the ecosystem in the forefront, whereby its thresholds of change beyond those deemed to be acceptable determine the nature in which a collection of human activities should be managed, so that ecosystem attributes remain within an acceptable range.

4.5 Adaptive Management: Both Participants recognize the importance of learning from the outcomes of current management practices in the interest of improving management policies and practices in the Canada-Newfoundland and Labrador offshore area.

4.6 Polluter Pays: Both Participants recognize that those responsible for pollution should bear the costs of the pollution, including actual loss or damage, costs and expenses related to response and remediation and loss or damage to the use or non-use value of public resources.

5.0 AREAS OF COOPERATION

Under this MOU, the Participants will cooperate on, but not limit themselves to the:

- 5.1 establishment of priorities for areas of collaborative work through annual work planning;
- 5.2 review and assessment of proposed projects and environmental issues in accordance with the applicable legislation and/or policies;
- 5.3 review and recommendation of regulations, guidelines and environmental management practices;
- 5.4 development and implementation of policies, procedures, coordinating mechanisms and auditing provisions for compliance and enforcement activities (as outlined in *Annex B: Cooperation Concerning Environmental Compliance and Enforcement*);
- 5.5 preparation and response to emergency pollution releases, including environmental monitoring, contingency planning, exercises and incident reporting (as outlined in *Annex A: Cooperation Concerning Environmental Emergencies*);



- 5.6** sharing of information in support of planning and implementation of offshore petroleum-related activities with respect to; chemicals use management, air emissions, waste discharges, species and habitat conservation and protection, and regulatory enforcement. The sharing and dissemination of information is subject to legislative and regulatory requirements, including the privilege provisions of the Accord Acts, relevant proprietary rights, and confidentiality obligations owed to any third party;
- 5.7** design and review of programs to monitor environmental effects of offshore petroleum-related activities on marine and coastal ecosystems, species and other ocean users, as well as the analysis, interpretation, and scientific review of monitoring results;
- 5.8** provision of timely and accurate weather, sea and ocean-ice-state forecasts and review of programs to monitor weather and sea state effects on offshore petroleum-related activities; as well as the analysis, interpretation, and scientific review of monitoring results;
- 5.9** conduct of collaborative science and technology activities, promotion of technology development and pollution prevention approaches; and
- 5.10** review and making of recommendations for the setting of research priorities by any research body where mechanisms for consultation do not already exist.

6.0 IMPLEMENTATION & GOVERNANCE

- 6.1 Executive Committee:** The Executive Committee is the principal body responsible for advancing the objectives of the MOU and will:
- a. consist of the Chief Executive Officer of the Board, and the Associate Regional Director General, Atlantic and Quebec Regions of EC;
 - b. appoint representatives to participate on an Implementation Committee;
 - c. approve annual work plans which identify priority issues and projects of mutual interest to be carried out cooperatively by both Participants throughout the year, and include expected outcomes and timelines;
 - d. recommend the development of annexes and amendments to the MOU; and
 - e. meet at least once a year.
- 6.2 Implementation Committee:** The Implementation Committee is the principal body responsible for preparing and implementing work plans and preparing progress reports under the MOU. The Committee will:
- a. consist of senior representatives from each Participant, appointed by the Executive Committee;
 - b. prepare progress reports and report on the status of work plan deliverables to the Executive Committee at mid-year and end of year;
 - c. recommend the establishment of working groups and/or sub-committees, as required, to address priority issues and projects identified pursuant to



- the MOU;
- d. consider and establish appropriate mechanisms for discussion, communication, information sharing, and joint planning between the two Participants; and
 - e. identify priorities, prepare work plans and progress reports.

7.0 ANNEXES

- 7.1 Any document describing any arrangement hereafter concluded between the Participants may be annexed to this MOU and will be approved by the signatories of the MOU.
- 7.2 The annual work plans and progress reports will be approved by the Executive Committee and annexed to the MOU.

8.0 TERMS AND CONDITIONS

General terms and conditions of the MOU include:

- 8.1 **Effective Date:** the MOU will take effect from the date both participants have signed the MOU.
- 8.2 **Duration:** the MOU will be in effect from the date of which it is signed by both Participants for a period of ten (10) years, before which time it will be reviewed and may be renewed, upon agreement of both Participants, prior to expiry.
- 8.3 **Termination:** either Participant may terminate this MOU with sixty (60) days written notice.
- 8.4 **Amendment:** the MOU may be amended by way of written amending agreements signed by the Participants.
- 8.5 **Governance:** if organizational changes to either Participant occur, initiatives pursuant to this MOU will be adjusted as appropriate.

9.0 COSTING

- 9.1 This MOU will not impose any financial responsibilities on its Participants, except that each participant will be responsible for the funding costs it incurs in its own interest, related to the support of the MOU.

10.0 ENTIRE ARRANGEMENT

- 10.1 This Arrangement is comprised of this MOU, Annex A, Annex B and any future document annexed to it by way of amendment.
- 10.2 This MOU is the entire arrangement between the Participants and supersedes and revokes previous arrangements, whether oral or in writing, between the Participants regarding the provision of environmental services in the Canada-Newfoundland and Labrador offshore area.



APPROVAL:

The underlying signatories affirm the commitment of the respective agencies to approve of and fulfill the intent of the MOU:

Canada-Newfoundland and Labrador Offshore Petroleum Board:

Signed at St. John's on the 30th day of July, 2015

for
Mr. Scott Tessier
Chair and Chief Executive Officer
Canada-Newfoundland and Labrador Offshore Petroleum Board

Environment Canada:

Signed at Quebec City on the 24 day of July, 2015

Mr. Philippe Morel
Regional Director General, Atlantic and Quebec Regions
Environment Canada



Annex A: Cooperation Concerning Environmental Emergencies

This document is an Annex to the Memorandum of Understanding (the MOU) between the Canada-Newfoundland and Labrador Offshore Petroleum Board (the Board) and Environment Canada (EC).

1.0 Introduction

Offshore petroleum-related activities may result in the accidental release of substances which could have an adverse impact on the marine environment. The objective of this Annex is to establish an approach for offshore activities that builds on each organization's mandate specifically related to preparedness and response to environmental emergencies.

For the purposes of this Annex, an environmental emergency is defined as an uncontrolled or unexpected incident involving the release, or the likelihood thereof, of a polluting substance into the environment that results or may result in an immediate or long-term harmful effect on the environment, or that constitutes or may constitute a danger to human life or health. It may be caused by an accidental release of pollutants, an industrial activity, a natural emergency or by a wilful act.

2.0 Environmental Emergency Notification

The Board requires operators to report all pollution incidents to the Board and the Canadian Coast Guard Operations Centre (CCGOC) in accordance with the Board's *Incident Reporting and Investigation Guidelines*. The CCGOC has been identified as the primary recipient of spill reports in the Atlantic region, and will disseminate the reports to all other appropriate government agencies, including EC.

CEPA and the Fisheries Act require that certain releases in contravention of those Acts be reported without delay. The *Release and Environmental Emergency Notification Regulations*, and the *Deposit Out of the Normal Course of Events Notification Regulations* ("Notification Regulations") specify in certain cases what authorities those releases must be reported to. The CCGOC is identified as the designated authority on behalf of EC in the Atlantic Provinces. Where EC exercises its right to directly contact the polluter for information it will endeavor to notify the Board in advance of taking this course of action.

Where a Participant determines that a pollution incident notification it has received was not provided to the CCGOC, it will contact the other Participant and the CCGOC as soon as possible to determine the appropriate action, if any.

3.0 Preparedness

3.1 Environmental Monitoring

EC, through the Canadian Ice Services (CIS), operates the Integrated Satellite Tracking of Pollution (ISTOP) program which uses satellite-based remote sensing (Synthetic Aperture Radar and Optical) to identify anomalies on the ocean surface which could be pollution. In support of environmental emergency preparedness and response, EC/CIS will provide the Board with ISTOP Notification Reports when an anomaly is detected in the Canada-Newfoundland and Labrador offshore area that is believed to be associated with offshore petroleum-related activities and the ISTOP CIS Monthly Reports covering all regions.

The Board may request additional ISTOP surveillance by CIS on a cost recovery basis and documented in a separate legally binding service agreement.

3.2 Contingency Plans and Exercises

The Participants will share current copies of their emergency response plans to ensure individual response plans are coordinated and well defined. EC will ensure that the Board is provided with current copies of *Environment Canada's Environmental Emergencies Response Operations Plan*. The Board will ensure that EC's National Environmental Emergency Centre (NEEC) is provided with a current copy of its emergency response plan, and controlled copies of spill response plans of all operators active in the Canada-Newfoundland and Labrador offshore area.



Spill contingency plans are required from operators before an activity can be authorized by the Board. If requested by the Board, NEEC will coordinate the Department's review of contingency plans submitted to the Board by project proponents and will provide, based on EC's capacity, focused scientific advice to the Board with respect to mandated areas; for example: contaminant fate and behavior, establishment of clean-up priorities and countermeasures expected to achieve a net environmental benefit, information on protection of sensitive ecosystems and wildlife such as Species at Risk, migratory birds and fish, as well as, the role of the Science Table.

The Participants may invite each other to participate in environmental emergency exercises as appropriate.

The Board and EC will identify and agree on an annual work plan which could include the review of contingency plans and the conduct of exercises.

4.0 Response

4.1 Lead

Pursuant to the Accord Acts, the Board is the lead agency responsible for the oversight of, and potential intervention for, environmental emergency response from offshore drilling and production installations on location in the Canada-Newfoundland and Labrador offshore area.

4.2 Provision of Scientific and Technical Advice by Environment Canada

In situations where there is an environmental emergency incident where the Board is the lead agency, the Board may request advice from Environment Canada through NEEC. NEEC is EC's focal point for the coordination and provision of EC's scientific and technical advice during an environmental emergency. NEEC will provide the Board, based on EC's capacity, through EC's experts and science-based programs, scientific and technical advice and support on matters such as: weather and meteorology; wildlife species and habitat; contaminant fate and behavior and dispersion and trajectory modelling; and establishment of clean-up priorities and countermeasures expected to achieve a net environmental benefit, to assist in reducing environmental damage during the response to an environmental emergency.

EC's authorities, role, resources and systems that are ready to provide timely and accessible science-based expert advice to protect the environment from the effects of environmental emergencies are referenced in its *Environment Canada's Environmental Emergencies Response Operations Plan*.

4.3 Liaison during a Serious Incident

In the event of a serious emergency incident:

- (a) Senior officials with the Board will brief senior federal and provincial officials as outlined in its Emergency Response Plan.
- (b) Environmental staff with the Board and NEEC will establish lines of communication during a serious incident.
- (c) EC will convene the Science Table when asked by the Board and when at least one of the following criteria is met:
 - The environmental emergency is serious in terms of impacts on the environment and/or complexity/severity.
 - The incident has an international or cross-jurisdictional component.
 - The need to coordinate information impedes the Board at fulfilling its response monitoring role.

4.4 Science Table

The Science Table brings together relevant experts in the field of environmental protection in the event of an environmental emergency response. The members of this Science Table can represent response agencies, all levels of government, Aboriginal



representatives, local communities, industries, environmental non-government organizations, and academic institutions.

The Science Table of experts is able to develop consensus on protection and clean-up priorities, bring the right expertise, adapt the scale of response to a particular environmental emergency, and provide a forum for rapidly providing information to minimize damage to human life or health, or the environment while maximizing the use of limited response resources. These discussions can occur on-site, or by telephone or videoconference.


The Science Table would supply the Board with consolidated scientific and technical advice on environmental concerns, priorities and strategies, and countermeasures thus enabling and optimizing the environmental response.

APPROVAL:

The underlying signatories affirm the commitment of the respective agencies to approve of and fulfill the intent of Annex A:


Canada-Newfoundland and Labrador Offshore Petroleum Board:

Signed at St. John's on the 30th day of July, 2015

for 
Mr. Scott Tessier
Chair and Chief Executive Officer
Canada-Newfoundland and Labrador Offshore Petroleum Board

Environment Canada:

Signed at Quebec City on the 24th day of July, 2015


Mr. Philippe Morel
Regional Director General, Atlantic and Quebec Regions
Environment Canada



Annex B: Cooperation Concerning Environmental Compliance and Enforcement

This document is an Annex to the Memorandum of Understanding between the Canada-Newfoundland and Labrador Offshore Petroleum Board (the Board) and Environment Canada (EC).

1.0 Introduction

Activities related to and substances used in offshore petroleum-related activities may trigger federal environmental legislation and regulations. The objective of this Annex is to establish clear processes for collaborative compliance and enforcement practices to avoid duplications and to maximize resource allocations and priority setting by implicated federal departments and agencies.

2.0 Roles and Responsibilities

Recognizing the complementary mandates and jurisdictions of both Participants, EC and the Board aim to work collaboratively to avoid duplications and to maximize resource allocations and priority setting.

3.0 Spill Notification and Response

The same notification procedures, obligations and reservations outlined in section 2.0 of Annex A: Cooperation Concerning Environmental Emergencies will apply to this Annex.

4.0 Inspections, Investigations and Compliance Verification

In order to verify compliance with any relevant EC legislation, EC may conduct routine inspections on offshore installations. Recognizing the role of the Board to regulate offshore activities, EC will coordinate all planned inspections with the Board in advance.

The Board is responsible for the investigation of pollution events that are associated with petroleum-related activities in the Canada-Newfoundland and Labrador Offshore Area, and normally will take the lead in these events. EC may conduct a joint investigation with the Board.

For certainty, each Participant has the right under its respective legislation to conduct an investigation independently of the other Participant.

The Board will assist EC personnel with logistics for transportation to offshore installations. EC will ensure that one or more of its officers is fully trained for travel to offshore installations and have a valid medical certificate for offshore work.

5.0 Information Sharing

Upon written request of the other Participant, the Board and EC agree to share information gathered during compliance and enforcement activities for the confidential and exclusive use of that Participant. Subject to applicable legislation, in the case of a transfer of enforcement files between the Participants, the first-responder party shall provide, to the extent possible, access to all relevant information obtained during the compliance and/or enforcement activity.

The Participants agree to respect the applicable legal and policy constraints with regard to information retention, exchange and disclosure. This includes government security policies, access to information and privacy legislation, the legislation administered by the Participants, and any case law concerning this legislation.

6.0 Compliance Promotion

Recognizing the role of the Board to regulate offshore activities, the Board is responsible to inform and educate operators about their legal obligations concerning, and to verify compliance with, all regulations under the Accord Acts.

For federal regulations under *CEPA, 1999*, the *Fisheries Act* (s. 36(3)) and the *Migratory Birds Convention Act, 1994* (s. 5.1) EC will conduct, at its own discretion, compliance



promotion activities targeted to offshore operators. When relevant, such compliance promotion will be done in collaboration with the Board.

7.0 Approvals

The underlying signatories affirm the commitment of the respective agencies to approve of and fulfill the intent of Annex B:

Canada-Newfoundland and Labrador Offshore Petroleum Board:

Signed at St. John's on the 30th day of July, 2015

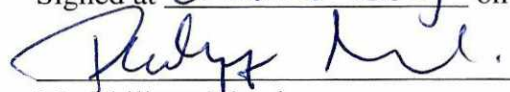


for

Mr. Scott Tessier
Chair and Chief Executive Officer
Canada-Newfoundland and Labrador Offshore Petroleum Board

Environment Canada:

Signed at Quebec City on the 24th day of July, 2015



Mr. Philippe Morel
Regional Director General
Atlantic and Quebec Regions
Environment Canada