



Memorandum of Understanding

Between:

Canada-Nova Scotia Offshore Petroleum Board
&
Environment Canada

Hereinafter referred to as the Participants

1.0 PREAMBLE

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

CANADA-NOVA SCOTIA OFFSHORE PETROLEUM BOARD (hereinafter, "the Board"), as represented by the Board's Chief Executive Officer; and

ENVIRONMENT CANADA (hereinafter "EC"), as represented on behalf of the Minister of the Environment by the Department's Regional Director General, Atlantic and Quebec Regions.

WHEREAS the Participants have independent but related mandates in regard to the protection of the environment relative to offshore petroleum resource activities carried out under their respective mandates;

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 Minister of the Environment has the mandate to:

- i. ensure that preventive and remedial measures are taken to protect the environment;
- ii. establish nationally consistent levels of environmental quality in cooperation with the provinces, territories and Aboriginal peoples;
- iii. protect the environment from the release of toxic substances, assess whether substances new to the Canadian market or in use in Canada or present in or released to the Canadian environment are toxic or capable of becoming toxic; and,
- iv. enforce *CEPA (1999)* and associated regulations.

WHEREAS the Minister of the Environment is the overall lead for the administration and enforcement of subsections 36(3) to (6) 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 of deleterious substances;

WHEREAS the Minister of the Environment, pursuant to the *Migratory Birds Convention Act, 1994 (MBCA)*, has the mandate to implement 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, pursuant to the *Canada Wildlife Act (CWA)*, has the mandate 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 Board is the lead agency responsible for the regulation and management of petroleum resource activities in the Nova Scotia offshore as in accordance with the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* (collectively the “*Accord Acts*”);

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 response and remediation of 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 activities and environmental conservation and protection in the Nova Scotia offshore;

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-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, Section 50 of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) 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 mandate as it relates to petroleum resource activities in the Nova Scotia offshore area. The intent of this MOU is to facilitate and promote protection of the environment, preparedness and response to oil spills and conservation of migratory birds and species at risk during the exploration, development, production, and abandonment phases of offshore petroleum resource 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 relative to offshore petroleum activities and provides a mechanism for the Participants to work cooperatively towards objectives of mutual interest including, but not limited to, 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 activities proceed in accordance with legislative and regulatory regimes; and
- 3.4** promotion of information sharing, dissemination, and knowledge transfer between the two 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 marine resources, in order to protect these resources and preserve the marine environment. The uncertain and incomplete nature of science relating to the environment invokes the precautionary approach where it is necessary to exercise caution in adopting safe minimal standards for all development.
- 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 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, as appropriate and while mindful of their respective legislative mandates, but not limit themselves to:

- 5.1** the establishment of priorities for areas of collaborative work through annual work planning;
- 5.2** the review and assessment of proposed projects and environmental issues in accordance with the applicable legislation and/or policies;



- 5.3 the review and recommendation of regulations, guidelines and environmental management practices;
- 5.4 the development and implementation of policies, procedures, coordinating mechanisms and auditing provisions for inspection, investigation, and enforcement activities;
- 5.5 the 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 the sharing of information in support of planning and implementation of offshore petroleum 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, relevant proprietary rights, and confidentiality obligations owed to any third party;
- 5.7 the design and review of programs to monitor environmental impacts of offshore petroleum 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 the provision of timely and accurate weather, sea and ice-state forecasts and review of programs to monitor weather and sea state effects on offshore petroleum activities; as well as the analysis, interpretation, and scientific review of monitoring results;
- 5.9 the conduct of collaborative science and technology activities, promotion of technology development and pollution prevention approaches; and
- 5.10 the 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 on the status of work plan deliverables for 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.

6.3 Project Teams: Project Teams are the principle bodies responsible for advancing work plan activities on a daily basis. Project Teams support and directly report to the Implementation Committee. They are to consist of operational level staff members from the Board and EC, and are to meet as needed.

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, but are not limited to:

8.1 Effective Date: the MOU will take effect from the date of the last signature;

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 authorized representatives of the Participants; and



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 an 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 Nova Scotia offshore.

APPROVAL:

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

Canada-Nova Scotia Offshore Petroleum Board:

Signed at _____ on the _____ y _____, 20

(Original signed by) _____ Dated this 22nd day of April, 2015 in Halifax.

Mr. Stuart Pinks
Chief Executive Officer
Canada-Nova Scotia Offshore Petroleum Board

Environment Canada:

Signed at _____ on the _____ da of _____,

(Original signed by) _____ Dated this 17th day of April, 2015 in Quebec City.

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



Annex A: Cooperation Concerning Environmental Emergencies

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

1.0 Introduction

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.

Offshore petroleum exploration, development and production 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.

2.0 Spill Notification

The Board requires all operators to report any accidental spill or release of petroleum or other hazardous materials, or any operational discharges which are above allowable limits set by the Board.

The Board requires operators to report all such 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 Maritime Region, and will disseminate the reports to all other appropriate government agencies, including EC.

EC requires that all releases in contravention of *CEPA, 1999* or the *Fisheries Act* be reported to EC without delay in accordance with the *Release and Environmental Emergency Notification Regulations*, and the *Deposit Out of the Normal Course of Events Notification Regulations* ("Notification Regulations"). The CCGOC is identified as the designated authority on behalf of EC in the Atlantic Provinces. EC also reserves the right to directly contact the polluter for information and will notify the Board when it takes this course of action.

Where a Participant receives spill information through channels other than the CCGOC, they will contact the other Participant and the CCGOC as soon as possible to determine the appropriate response action, if any.



3.0 Preparedness

3.1 Environmental Monitoring

EC, through the Canadian Ice Service (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 Maritime Region as well as the ISTOP CIS Monthly Report covering all regions. CNSOPB 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 and contingency plans of all operators active in the Nova Scotia offshore.

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 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 Agency

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 Nova Scotia 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 EC 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, through EC's experts and science-based programs, scientific and technical advice and support to assist in reducing environmental damage during the response to an environmental emergency, such as: weather and meteorology, wildlife species and habitat, contaminant fate and behavior, dispersion and trajectory modelling, and establishment of clean-up priorities and countermeasures expected to achieve a net environmental benefit.

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 emergency pollution incidents are referenced in its *Environment Canada's Environmental Emergencies Response Operations Plan*.

4.3 Liaison during a Major Incident

In the event of a major emergency incident:

- (a) Senior officials with the Board will brief senior federal and provincial officials as outlined in related Board Plans.
- (b) Environmental staff with the Board and NEEC will establish lines of communication during a major 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 major 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 moving 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-Nova Scotia Offshore Petroleum Board:

Signed at _____ on the _____ day of _____, 20____

(Original signed by) _____ Dated this 22nd day of April, 2015 in Halifax.

Mr. Stuart Pinks
Chief Executive Officer
Canada-Nova Scotia Offshore Petroleum Board

Environment Canada:

Signed at _____ on the _____ day of _____, 20____

(Original signed by) _____

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

Dated this 17th day of April, 2015 in Quebec City.



Annex B: Cooperation Concerning Environmental Enforcement and Compliance

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

1.0 Introduction

Activities related to and substances used in offshore petroleum exploration, development and production processes may trigger federal environmental legislation and regulations. The objective of this Annex is to establish clear processes for collaborative inspections and enforcement and compliance promotion 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 and Investigations

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 spill events that emanate from offshore installations in its designated region. Notwithstanding the Board's lead role, EC may either conduct its own investigation, or may conduct a joint investigation with the Board.

The Board will assist EC personnel with logistics for transportation to the spill site. 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 inspections, investigations or intelligence 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 access to information obtained during the inspection and/or investigation.



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

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 and 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-Nova Scotia Offshore Petroleum Board:

Signed at _____ on the _____ day of _____ 20

(Original signed by) Dated this 22nd day of April, 2015 in Halifax.

Mr. Stuart Pinks
Chief Executive Officer
Canada-Nova Scotia Offshore Petroleum Board

Environment Canada:

Signed at _____ on the _____ day of _____ 20

(Original signed by)

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

Dated this 17th day of April, 2015 in Quebec City.