



Canada Energy
Regulator

Régie de l'énergie
du Canada

Suite 210
517 Tenth Avenue SW
Calgary, Alberta
T2R 0A8

517, Dixième Avenue S.-O.
bureau 210
Calgary (Alberta)
T2R 0A8

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21 August 2020

Heather Rasmussen
Senior Policy Advisor
Nunavut Impact Review Board
PO Box 1360
Cambridge Bay, NU
X0B 0C0

Dear Ms. Rasmussen:

**The Canada Energy Regulator's Comments Regarding the Board's
Recommendations in the Final Report for the Strategic Environmental
Assessment in Baffin Bay and Davis Strait**

Thank you for leading the Strategic Environmental Assessment (SEA) in Baffin Bay and Davis Strait, and for the opportunity to comment on the resulting recommendations in the Final Report. The recommendations are important considerations for the Canada Energy Regulator (CER) and the oil and gas companies we regulate. Many of the recommendations are in alignment with the CER's existing expectations for companies conducting oil and gas activities in the Canadian Arctic.

The following outlines the recommendations that have been identified as aligning with the CER's mandate and highlights some opportunities for future work and collaboration:

Recommendation 1: Building on the data collected in Recommendation #29, develop accessible public guidance on the roles and responsibilities of Nunavut stakeholders (Federal agencies, Government of Nunavut, Inuit organizations, and communities) for oil and gas spill response within the Nunavut Settlement Area and in the Canadian offshore adjacent to the Nunavut Settlement Area.

Recommendation 29: Assemble available information on emergency preparedness and response, including:

- ***current regulatory oversight and responsibilities;***
- ***current and required response capabilities for the Area of Focus;***
- ***spill response technologies applicable to the Arctic (in both ice and open water);***
- ***emergency response infrastructure; and***
- ***best practices and measures for emergency prevention and response.***

CER's Comments on Recommendations 1 and 29:

Oil and gas exploration and development companies are responsible for their own responses to oil and gas spills/releases related to their oil and gas activities (including paying for the cost of preparedness and clean-up). The CER is the lead federal agency for offshore arctic oil and

gas activities including overseeing spill and emergency response capabilities, technologies, infrastructure and response plans for installations, vessels and equipment **actively engaged** in oil and gas activities (actively drilling drillships or platforms and any vessels within the safety zone). CER partnerships with Transport Canada, Canadian Coast Guard, Environment and Climate Change Canada, the Government of Nunavut and Inuit organizations and communities will be very important in the event of a significant spill.

The CER would take the lead in working with all of the above organizations and Crown and Indigenous Relations and Northern Development Canada (CIRNAC) to develop accessible public guidance on the roles and responsibilities of Nunavut stakeholders for oil and gas spill response within the Nunavut Settlement Area and in the Canadian offshore adjacent to the Nunavut Settlement Area.

Recommendation 5: All parties with responsibilities for emergency response in the Area of Focus, including the communities in the region, should establish relationships with other circumpolar nations and transboundary groups to support active and timely coordination with these groups to enhance transboundary emergency preparedness and response capabilities.

CER's Comments on Recommendation 5:

The CER appreciates the value of circumpolar cooperation and coordination. The CER has been part of the Canadian delegation for the [Arctic Council's Emergency Prevention, Preparedness, and Response](#) (EPPR) working group since 2007, including being part of the Canadian delegation for EPPR's Marine Environmental Response Experts Group, which oversees implementation of the Agreement on Cooperation on Marine Oil Spill Preparedness and Response in the Arctic which has been signed off by all 8 Arctic Council States.

The CER also participates in the [Arctic Offshore Regulators Forum](#) and intends to continue to be involved in international coordination/cooperation efforts.

Recommendation 8: In consultation with communities, relevant regulatory authorities should prepare community "toolkit" materials in plain language and general terms, which support community members becoming involved in research conducted in the Area of Focus and in the regulatory and marine planning processes associated with potential future oil and gas development in the Area of Focus.

CER's Comments on Recommendation 8:

Aside from its involvement in the [Environmental Studies Research Fund](#), the CER is not directly involved in research, however the CER is interested in co-developing tailored community "toolkit" materials which would support community members becoming involved in regulatory processes associated with the assessment of any potential oil and gas activities. This type of material could be co-developed once there is evidence that there is renewed interest in exploring for oil and gas in the region.

Recommendation 11: Future assessments and marine planning should include comprehensive transboundary effects assessments of valued environmental components and collaboration with Inuit residents in transboundary areas outside the Nunavut Settlement Area (e.g., Nunavik, Greenland, etc.) should occur whenever practical.

CER's Comments on Recommendation 11:

If this recommendation includes assessments on individual oil and gas projects that come before the CER, the CER expects proponents to assess cumulative and transboundary effects of Valued Ecosystem Component's as they relate to their project. Further, the CER expects companies to work with Inuit residents in the development of their assessment and proposed projects. More details on CER expectations can be found in the [National Energy Board Filing Requirements for Offshore Drilling In the Canadian Arctic](#).

Recommendation 13: Clear descriptions should be developed to explain the royalties and benefits regime applicable to:

- ***oil and gas developments occurring exclusively in the Canadian offshore adjacent to the Nunavut Settlement Area; and***
- ***oil and gas developments occurring in the Canadian offshore adjacent to the Nunavut Settlement Area which are supported by land-based infrastructure within the Nunavut Settlement Area.***

This analysis should clarify the extent to which Canada Oil and Gas Operations Act benefits can be accrued in Nunavut and specify the framework that would apply to compensation for interference with Inuit harvesting or damage to marine wildlife or wildlife habitat (within the Canadian offshore and the Nunavut Settlement Area).

Recommendation 14: Potential impacts to Inuit harvesting and Inuit rights (including threats to food security) should be considered when developing and implementing compensation frameworks for impacts on marine fish, waterbirds, and marine mammals.

Recommendation 15: Assessments of proposed oil and gas projects should clearly identify the predicted benefits and potential compensation accruing to the region and potentially affected communities.

CER's Comments on Recommendations 13, 14 and 15:

While the CER is not involved in royalties and benefits (other than confirming that a Canada Benefits Plan is in place prior to issuing an authorization for activity), the CER expects companies to develop compensation frameworks with Inuit related to potential interference with Inuit harvesting or damage to marine wildlife or wildlife habitat related to a proposed project. In addition to industry compensation regimes, there are other avenues for obtaining compensation, some of which are under the purview of the CER and others that are not, such as the Ship-source Oil Pollution Fund which is administered by an appointee of the Governor in Council. The CER would offer to lead the co-development of a backgrounder on compensation with other federal partners outlining the different means of obtaining compensation.

The CER expects companies proposing oil and gas projects to include analysis on potential impacts to Inuit harvesting and Inuit rights including local and regional impacts on marine fish, waterbirds and marine mammals. The CER also expects companies to identify predicted benefits and impacts the project would have on the region and potentially affected communities in their application to the CER.

Recommendation 16: Structure future assessments conducted in, or adjacent to, the Nunavut Settlement Area and associated decision-making processes with the express recognition of Inuit rights, Inuit Qaujimajatuqangit and Inuit Qaujimaningit, and the requirement to actively engage with Inuit knowledge holders and Nunavut communities.

Recommendation 17: The scope of future assessments and marine planning must include comprehensive cumulative effects assessments for valued ecosystemic and socioeconomic components, including food security. Collaboration and input should be sought from all relevant parties and be informed by community-based monitoring programs.

CER's Comments on Recommendations 16 and 17:

The CER expects that companies submitting project applications for oil and gas activities recognize Inuit rights, Inuit Qaujimajatuqangit and Inuit Qaujimaningit. Applications are expected to include comprehensive cumulative effects assessments for valued ecosystemic and socioeconomic components, including food security. Companies are required to actively engage, consult and collaborate with all relevant parties including Inuit knowledge holders and Nunavut communities. Company expectations are outlined in the [National Energy Board Filing Requirements for Offshore Drilling In the Canadian Arctic](#).

Recommendation 31: Building on the data collected in Recommendation #29, initiate a formal review of the existing capacity to respond effectively to a major spill of oil in the Area of Focus, highlighting the expected role of communities and community capacity in responding to emergencies. The Government of Nunavut, Designated Inuit Organizations, and Nunavut communities should be actively engaged through the review process.

Recommendation 32: Conduct baseline research to assess the capacity and infrastructure required to manage and respond to a well blowout or major spill in the Arctic and to determine whether an effective response can be mounted in remote locations under harsh weather conditions with periods of prolonged darkness and in the presence of ice.

CER's Comments on Recommendations 31 and 32:

The CER would be interested in participating in such a review with respect to oil and gas spills resulting from oil and gas activity sufficiently prior to that activity commencing.

The capacity and infrastructure required to manage and respond to a well blowout or major spill in the Arctic and to determine whether an effective response can be mounted in remote locations under harsh weather conditions with periods of prolonged darkness and in the presence of ice, was a major focus of the NEB's [Review of Offshore Drilling in the Canadian Arctic](#). The CER would be interested in any new information arising from any additional research and would expect companies to include that information in any application to the CER to explore or develop oil and gas in the Canadian Arctic.

Recommendation 63: In the development of emergency response plans, spill contingency and prevention plans, standard operating procedures, etc. and in the

design of impact mitigation measures, oil and gas developers should incorporate lessons learned from accidents and malfunctions in similar jurisdictions, including associated standard operating procedures and impact mitigation measures.

CER's Comments on Recommendation 63:

The CER notes that it is very much in alignment with this recommendation in that it expects oil and gas explorers and developers to use all available information on accidents and malfunctions in similar jurisdictions to inform the development of their emergency response plans, spill contingency and prevention plans, standard operating procedures and mitigation measures. Further, oil and gas explorers and developers are expected to have robust management systems that implement continual improvement feedback loops.

Recommendations 76: Establish setbacks or other potential development restrictions on the proximity of oil and gas development activities, infrastructure, and other components to the floe edge.

Recommendation 77: Establish setbacks or other potential development restrictions on the proximity of oil and gas development activities, infrastructure, and other components (particularly seismic surveying activities) in areas, and during seasons, where commercial harvesting takes place currently, or in areas where expansion of commercial harvesting is expected to take place in the future.

Recommendation 78: Consider establishing setbacks or other development restrictions on the proximity of oil and gas development activities, infrastructure and other components (particularly seismic surveying activities) in areas, and during seasons, that are currently closed to fishing in order to protect sensitive benthic areas and Narwhal overwintering habitats.

CER's Comments on Recommendation's 76, 77 and 78:

The CER expects companies to describe how setbacks and development restrictions are considered in their application to conduct oil and gas activities.

The CER recognizes that there may be additional recommendations in which the CER may have a role in the future. We are grateful for the opportunity to contribute to the SEA process to date and look forward to continued collaboration.

Should you have any questions regarding this submission, please feel free to contact Jess Dunford at Jess.Dunford@cer-rec.gc.ca or by telephone at (403) 472-6280.

Regards,

Jess Dunford

Jess Dunford
Director, Facilities Adjudication, North and Central