



**Executive
Council**

*A certified copy of an Order in Council dated
February 26, 2016*

2016-48

The Governor in Council on the report and recommendation of the Minister of Energy dated February 4, 2016, and pursuant to Section 146 of Chapter 3 of the Acts of 1987, *the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*, is pleased, effective on and after February 26, 2016, to

- (a) repeal the *Nova Scotia Offshore Area Oil and Gas Spills and Debris Liability Regulations*, N.S. Reg. 3/96, made by the Governor in Council by Order in Council 96-19 dated January 9, 1996; and
- (b) make regulations respecting financial requirements in the form set forth in Schedule "A" attached to and forming part of the Report and Recommendation.

Certified to be a true copy

Catherine Blewett
Clerk of the Executive Council

Schedule "A"

**Regulations Respecting Financial Requirements for Offshore Petroleum Projects
made by the Governor in Council under Section 146 of Chapter 3 of the Acts of 1987,
the *Canada-Nova Scotia Offshore Petroleum Resources Implementation (Nova Scotia) Act***

Citation

- 1 These regulations may be cited as the *Canada-Nova Scotia Offshore Petroleum Financial Requirements Regulations*.

Definitions

- 2 In these regulations, "Act" means the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*.

Financial resources

- 3 (1) For the purposes of subsection 159A(1) of the Act, the proof that an applicant has the necessary financial resources is to be made by the applicant providing the Board with a statement of its net assets or of funding arrangements that it has made that demonstrates to the Board's satisfaction that it is able to pay the applicable amount referred to in that subsection.
- (2) The statement must be accompanied by 1 or more of the following documents that substantiate it:
- (a) the applicant's most recent audited annual financial statement and, if the applicant has been given a credit rating by a credit rating agency that is current at the time the application is made, a document that indicates that credit rating;
 - (b) a promissory note;
 - (c) an insurance policy or a certificate of insurance;
 - (d) an escrow agreement;
 - (e) a letter of credit;

- (f) a line of credit agreement under which funds identified in the statement are available;
 - (g) a guarantee agreement;
 - (h) a security bond or pledge agreement or an indemnity bond or suretyship agreement.
- (3) For greater certainty, the Board may require that the statement and substantiating documents be audited by a qualified independent auditor and that the applicant provide the Board with a report of the audit that is signed by that auditor.

Financial responsibility

- 4 (1) A pooled fund that is established for the purposes of subsection 160(1A) of the Act must be located and administered in Canada.
- (2) The fund is to be used only to make payments under subsection 160(2) of the Act, except that the fund may be used to make payments
- (a) under subsection 168(2) of the federal Implementation Act, if it is also established for the purposes of subsection 168(1.01) of that Act;
 - (b) under subsection 163(2) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* (Canada), if it is also established for the purposes of subsection 163(1.01) of that Act;
 - (c) under subsection 158(2) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, R.S.N.L. 1990, c. C 2, if it is also established for the purposes of subsection 158(1.1) of that Act; or
 - (d) under subsection 27(2) of the *Canada Oil and Gas Operations Act* (Canada), if it is also established for the purposes of subsection 27(1.01) of that Act.
- (3) Moneys that are required to be paid out of the fund must be paid by the administrator of the fund on demand.
- (4) The administrator of the fund must
- (a) every year, provide the Board with an audited financial statement that demonstrates that the fund has been maintained at a minimum of \$250 million or at the higher minimum amount set by regulation;

- (b) notify the Board within 24 hours of the addition of a participant to, or withdrawal of a participant from, the fund or of any change in the amount of the fund, other than one that is solely attributable to an interest charge or a banking fee;
- (c) notify the Board of a contravention by a participant in the fund of their obligation under subsection 160(1C), 160(1D) or 160(5) of the Act within 24 hours after they become aware of the contravention; and
- (d) provide the Board with the phone number, email address and mailing address of their contact person.

Reimbursement into pooled fund

5 For the purposes of subsection 160(5) of the Act, the reimbursement into the pooled fund of an amount that is paid out of it must be made within 7 days after the day on which the payment is made.

Board recommendations regarding lesser financial requirements

- 6** (1) For the purposes of subsection 160A(1) of the Act, the Board may make a recommendation to the Minister in respect of an applicant if the Board is satisfied that the estimated total of the losses, damages, costs and expenses, other than losses of non-use value for which the applicant may be liable under clauses 159(1)(b) and 159(2)(b) of the Act in connection with the proposed work or activity to which the application pertains, is less than the amount referred to in subsection 159(2B) of the Act.
- (2) The recommendation must identify the hazards that are relevant to the proposed work or activity and must include an assessment of the risks associated with each event that could occur in connection with each of those hazards and that could result in debris, in a spill or in an authorized discharge, emission or escape of petroleum.
- (3) The following information must accompany the recommendation:
- (a) the estimated total of the losses, damages, costs and expenses referred to in subsection (1);
 - (b) the recommended amount that is less than the amount referred to in subsection 159(2B) or clause 160(1)(a) of the Act, as the case may be;
 - (c) a summary of the reasons for the recommendation;
 - (d) a summary of any information provided by the applicant to the Board that

the Board considers to be pertinent;

- (e) any information concerning the recommendation that the Board provided to the federal Minister in connection with that Minister's approval under subsection 160A(1) of the Act; and
 - (f) any information requested by the Minister.
- (4) The Board may submit to the Minister any other information that it considers to be pertinent.