

**ANNEX “A”**

**ENVIRONMENTAL EMERGENCY MANAGEMENT**

**OPERATIONAL ANNEX BETWEEN**

**THE CANADA ENERGY REGULATOR (CER)**

**AND**

**ENVIRONMENT AND CLIMATE CHANGE CANADA (ECCC)**

**(THE “PARTICIPANTS”)**

This Operational Annex is governed by the terms described in the Memorandum of Understanding (MOU) between ECCC and the CER.

**1.0 Purpose**

The purpose of this Operational Annex is to detail how the Participants will share information and cooperate in areas related to environmental emergencies, including incidents associated with CER-regulated facilities. This includes the Participants’ roles within the incident management system and exchanges of information and collaboration on scientific needs arising as the result of emergency situations that have, or potentially will, impact the environment and/or human health.

**2.0 Term**

This Operational Annex to the overarching MOU will come into effect on the Effective Date and will expire ten (10) years from the Effective Date of the overarching MOU, unless it is terminated earlier in accordance with the terms of this Operational Annex (“Term”). This Operational Annex shall automatically extend for additional one-year terms unless either Participant delivers to the other Participant, at least sixty (60) days prior to the expiration of this Operational Annex, written notice of such Participant's intent to terminate this Operational Annex. This Operational Annex will terminate upon the expiry of the overarching MOU.

**3.0 Definitions**

***Canada Energy Regulator Emergency Operations Centre (CER EOC)***

The CER EOC is physically located in Calgary, AB and it may also be stood up virtually. The EOC is responsible for supporting the field response team and assessing actions at a strategic level during an incident. The EOC provides situation reports to Natural Resources Canada’s Departmental Emergency Operations Centre which may also inform the Government of Canada’s Government Operations Centre in Ottawa.

### ***Effective Date***

The date on which the last participant signs this Operational Annex.

### ***Environmental Emergencies***

Environmental emergencies are incidents that trigger emergency-related obligations set out in environmental legislation, including but not limited to the *Canadian Environmental Protection Act 1999* (CEPA), the *Fisheries Act*, and the *Migratory Birds Convention Act* and their associated regulations and/or interim orders, as applicable in the circumstances. In CEPA, an environmental emergency is defined as: (a) an uncontrolled, unplanned or accidental release, or release in contravention of regulations or interim orders made under this Part [Part 8], of a substance into the environment; or (b) the reasonable likelihood of such a release into the environment. For the purposes of administering the *Fisheries Act* in this agreement, an environmental emergency means an unauthorized release of a deleterious substance, or the serious and imminent danger of such a release, into areas inhabited by fish, waters frequented by fish, or into any place where such substances may enter those waters.

For the purposes of this MOU environmental emergencies can also include incidents as defined by the CER Onshore Pipeline Regulations and the Canada Oil and Gas Drilling and Production Regulations.

### ***Incident Command System (ICS)***

ICS is a standardized management system used during an emergency designed to enable effective, efficient incident management by integrating a combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure. ICS can bring together the functions of the federal and provincial governments, local authorities and governments, and the responsible persons.

### ***Lead Federal Regulatory Agency (Lead Agency)***

The Lead Agency is the federal agency, with primary jurisdiction, that oversees the response and recovery efforts by the responsible persons.

The CER is identified as the Lead Agency for environmental emergencies originating from CER-regulated facilities and activities including:

- Interprovincial and international pipelines; and
- Exploration and drilling for, the production, conservation, processing and transportation of petroleum in the non-Accord frontier offshore areas and, until 31

March 2034,<sup>1</sup> the onshore Northwest Territories portion of the Inuvialuit Settlement Region.

ECCC is identified as the Lead Agency when ECCC has authority and where:

- The spill has been caused by a federal department or agency on their own property; or
- An agency is not capable or willing to act as a Lead Agency.

### ***National Environmental Emergencies Centre (NEEC)***

The NEEC is ECCC's 24/7 focal point for the provision of scientific and technical advice during a pollution incident, to inform actions that reduce the consequences of environmental emergencies. The NEEC also monitors a pollution incident to ensure that all reasonable measures are being taken to protect the environment, as prescribed through legislation. In the event of an incident where the Canada-US Joint Inland Pollution Contingency Plan is activated, NEEC coordinates, with the U.S Environmental Protection Agency, the binational concept of operations. The NEEC is based in Montreal, QC, with regional offices located in Vancouver, BC, Dartmouth, NS, and Mount Pearl, NL.

### ***National Environmental Emergency Operations Centre Environment and Climate Change Canada (NEEOC ECCC)***

NEEC is supported by the NEEOC which is modelled on the Incident Command System (ICS) to coordinate ECCC's response to environmental emergencies. The NEEOC provides consistent leadership of ECCC's response operations, provision of advice and services, reporting and management of information, and supporting staff that are or will be deployed to an incident.

### ***Operational Annex***

The Operational Annex sets out the operational policies and procedures for Participants to follow in alignment with the purpose, terms and scope of the overarching MOU.

### ***Responsible Persons***

Responsible persons is a general term to describe persons defined in legislation who are subject to legislative and regulatory obligations. Depending on the legislation, they can be described as persons who own or have the charge, management, or control of substances contributing to an environmental emergency.

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<sup>1</sup> Unless the Government of Canada and the Government of the Northwest Territories agree that the CER is to continue to be the regulator for one or more periods of 20 years each.

## **Scientific Support Coordinator (SSC)**

The SSC is ECCC's principal advisor to monitor that the incident response required under the law is being provided, and to coordinate delivery of ECCC's products and services. The SSC provides intelligence, scientific, and technical advice to the CER Incident Command at command staff level.

## **4.0 General Areas of Cooperation Related to Management of Environmental Emergencies**

The Participants will cooperate in areas related to environmental emergencies, including incidents associated with CER-regulated facilities, in accordance with this Annex.

The Participants recognize that timely notification of environmental emergency incidents and coordination of respective activities or support for the management of such incidents is critical for the protection of the environment and human health. The Participants concur that in an emergency response situation, they may call upon one another to provide support in the form of staff and technical resources. The Participants will use their best efforts to provide the requested resources.

The Participants will seek opportunities to coordinate preparedness activities by participating in and sharing information on emergency management planning, exercises and response, joint training initiatives, staff exchanges, and meetings.

### **4.1. Regulatory Matters**

4.1.1. The Participants will cooperate and provide opportunity to contribute to the development of their respective environmental emergencies' regulatory requirements, guidelines, best practices, oversight and processes, and will seek joint initiatives where beneficial.

4.1.2. Activities to be coordinated under this MOU may also include any other activity that is of mutual benefit and interest to the Participants, including participation in regulatory forums and committees.

### **4.2 Sharing Environmental Emergency Notification and Reporting Information**

4.2.1 The Participants recognize that they each administer legislative and regulatory obligations for responsible persons to notify and report on environmental emergency incidents.

4.2.1.1 With respect to ECCC, when a spill occurs that triggers the legal obligations of the *Fisheries Act* or the *Canadian Environmental Protection Act, 1999*, responsible persons must notify the authorities designated in those legislations. ECCC has designated, through regulations, some

federal (i.e., Canadian Coast Guard), provincial and territorial 24/7 emergency response services to be able to receive these notifications on its behalf. For jurisdictions not designated, responsible persons must directly notify ECCC. The sharing of information from designated provincial and territorial 24/7 emergency response services with ECCC is supported by formal agreements.

4.2.1.2 With respect to the CER, it requires all companies that it regulates to report all incidents to the Online Event Reporting System or to the Transportation Safety Board which in turn, notifies the CER On-Call Responder.

4.2.2 The Participants commit to working towards ensuring mutual awareness of emergency incidents and share relevant information, as soon as reasonably possible, to avoid or minimize surprise on the part of either party. There is recognition that some information may not be possible to share, particularly if it is third-party information.

#### *4.3. Resource Sharing*

4.3.1. Cooperation under this agreement may include the sharing of both technical and staff resources and information, where capacity exists in accordance with all applicable laws.

4.3.2. Where a Participant requests resources or services of technical staff from the other Participant for support on a specific activity that is not within the scope of general cooperation and activities contemplated in this subsection, the Participants may jointly develop means for the reimbursement of costs incurred for such services, including a schedule of related fees for such services.

4.3.3. Where a Participant requests resources or services from the other Participant that are subject to reimbursement, the Participants will jointly develop an agreement setting out the terms and conditions of the services to be provided, including service standards, calculation of payments, invoice procedures, indemnity provisions, and settlement of disagreements processes.

### **5.0 Specific Areas of Cooperation during an Emergency**

#### *5.1 Scientific and Technical Support*

The CER may request scientific and technical support from the NEEC in areas within ECCC's mandate, such as:

- Recommended actions to reduce the consequences on the environment and human life or health;

- Advice on mitigation and cleanup measures;
- The physical and chemical properties of various substances which may be toxic and/or harmful to the environment and their fate and effects;
- Physical, chemical and toxicological laboratory analysis of samples;
- Assistance with the design of sampling plans and methods to be used to monitor an ongoing incident as well as to assess the overall impact of an incident on the environment;
- Potential effects to the environment;
- Identification of resources at risk through stakeholder engagement and/or provision of environmental sensitivity mapping products;
- Advice on the protection of sensitive ecosystems and wildlife (e.g., migratory birds);
- The provision of weather forecasts and warnings; atmospheric and hydrologic trajectory and dispersion modeling; and other hydro-meteorological related services (e.g., ice and iceberg of satellite tracking of pollution in the marine environment);
- Expertise regarding Shoreline Cleanup Assessment Techniques (SCAT), clean up methods, endpoints;
- The use of countermeasures (e.g., spill treating agents) and the net environmental benefit associated with their use; and,
- Regulatory requirements under ECCC's legislation, which may be triggered by an environmental emergency.

ECCC may request scientific and technical support from the CER in the following areas within the CER's mandate:

- Emergency response activities related to facilities regulated by the CER;
- Characteristics and information on products transported by CER-regulated facilities, including support in obtaining product samples, when required;
- Design and engineering of facilities;
- Operations of facilities; and
- Regulatory requirements related to CER-regulated facilities.

## *5.2 Incident Management System*

The Participants will integrate their personnel within the Lead Agency's incident management system in an emergency response situation. The CER and most of its regulated companies use the ICS.

In the event that the CER is the Lead Agency for response purposes, and it requests participation by NEEC, ECCC staff will be integrated into the ICS as follows:

- The SSC, the primary position filled by ECCC, will report directly to the CER's on-site incident commander as part of the command staff for the incident;
- Within an ICS approach, ECCC could take on other roles within the incident management team as needed based on capacity, (e.g., Environmental Unit Leader, Technical Specialists and Field Observers); and

- In the event that the CER's EOC requires technical support from the NEEC, it will provide technical assistance directly to the EOC. This could be accomplished remotely or in person.

In the event that ECCC is the Lead Agency for response purposes, and it requests participation by CER Staff, CER staff will integrate into the NEEC NEEOC as follows:

- Primarily as Technical Specialists, as needed, or in other ICS positions, as needed.

In the event that the ICS is not the incident management system used during an emergency, the Participants will agree amongst themselves as to the roles that each of the Participants will play within the incident management system.

## **6.0 General**

This Operational Annex will commence and take effect upon the date of the last Participant's signature of the Operational Annex.

## **7.0 Administration of this Operational Annex:**

The following are the titles of each designate and their contact information for the purposes of carrying out this Annex:

### **FOR THE CER**

Vice President  
Field Operations  
Canada Energy Regulator  
517 10th Avenue SW  
Calgary, AB  
T2R 0A8

### **FOR ECCC**

Director  
Environmental Emergencies  
Environmental Protection Operations  
Directorate  
Environment and Climate Change Canada  
351, boul. St Joseph, 10th floor Gatineau  
(Québec)  
K1A 0H3

**8.0 SETTLEMENT OF DISAGREEMENTS:**

The Participants will make all reasonable attempts to resolve any disagreement arising from or regarding the interpretation or administration of this Operational Annex through consultation among the Participants’ Departmental Representatives in Section 7.0 who represent the Participants. If negotiation fails to resolve the dispute, the Participants will refer the matter to the Departmental Representatives in Section 9.1 of the overarching MOU.

**9.0 WITHDRAWAL**

Either Participant may withdraw from this Operational Annex at any time, by providing at least sixty (60) days’ written notice to the other Participant.

**10.0 COUNTERPARTS**

This Operational Annex may be executed in counterparts in writing or by electronic signature and delivered by mail or electronic means including portable document format “pdf” counterparts (all of which shall together constitute one and the same agreement).

**11.0 SIGNATURE**

**Canada Energy Regulator**

Vice President  
Field Operations

**Environment and Climate Change  
Canada**

A/Director General  
Environmental Protection Operations  
Directorate

Date signed: \_\_\_\_\_

Date signed: \_\_\_\_\_