



**Submission of the Newfoundland and Labrador Oil & Gas Industries Association (Noia) to the House of Commons Standing Committee on Environment and Sustainable Development regarding Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.**

**Noia**

Established in 1977, and now with almost 600-member companies, Noia is the largest offshore petroleum association in Canada. Noia core members provide products and services for the petroleum industry and associate members represent operators, trade associations, educational institutions, and government bodies. Our mission is to promote development of East Coast Canada's hydrocarbon resources and to facilitate the participation of our members in global oil & gas industries.

**The Newfoundland and Labrador Oil & Gas Industry**

Offshore petroleum activity in Newfoundland and Labrador began in 1963, with the first exploration well being drilled in 1966. Despite fluctuating levels of exploration, the industry has made, and will continue to make, an influential contribution to the economy and society of Newfoundland and Labrador. Our offshore industry also contributes significantly to the Canadian economy, particularly through corporate and personal income tax. Also, the Government of Canada's 8.5 per cent stake in the Hibernia project sees a substantial financial return to the country.

In socio-economic reports (released by Stantec) covering the 2006 to 2014 period, GDP was on average \$10 billion per year higher because of petroleum development and production activities in Newfoundland and Labrador, generating 35.7 per cent of the province's GDP at peak production. Household income was approximately \$1.5 billion per year higher during this period and the unemployment rate was 2.1 percentage points lower as a result. Changes in migration led to a population that was 6.8 per cent higher in 2014, mainly due to oil and gas activities.

From 1999 to 2014, over \$34 billion in capital and operating expenditures occurred with 60,600-person years of direct industry employment and 227,000 person years of total employment impact. Wages paid in the oil and gas industry amounted to \$6.4 billion, with a \$19 billion direct and indirect contribution to household income. In 2014, 19 per cent of housing starts were attributed to the oil & gas industry.

## **Introduction**

The Government of Canada announcement on February 8, 2018 stated, “A clean environment and a strong economy go hand in hand – that’s why the Government of Canada is bringing forward better rules for the review of major projects. Better rules will protect our environment, fish and waterways, rebuild public trust, and create new jobs and economic opportunities for the middle class and those working hard to join it.” Noia is in firm agreement that a clean environment and a strong economy go hand in hand and responsible legislation can both protect the environment and create new jobs and economic opportunities. The offshore oil & gas industry in Newfoundland and Labrador is a critically important element of our provincial and national economies that has created significant economic wealth for governments, businesses, and indeed all residents. This has happened hand in hand while maintaining public trust, as well as the highest standards of environmental protection and safety performance. This is in no small measure the result of having an experienced offshore regulator in the Canada-Newfoundland and Labrador Offshore Petroleum Board (the C-NLOPB) with a global perspective on offshore activities and regulation to achieve the highest standards of environmental, safety, and operational performance.

The announcement of the Government of Canada also stated, “Companies would have more clarity about what is required of them, and review timelines would be more predictable. Project reviews would be both more rigorous and more efficient, with reduced legislated timelines and clearer requirements from the start.” Noia has long recognized the importance of clarity, predictability, and efficiency in regulatory competitiveness - a key element in a jurisdiction’s ability to attract global exploration investment. Noia supports regulatory processes that eliminate duplication and unnecessary regulatory burden, maintain competitiveness, ensure high standards for

health, safety, and the environment, and create jobs and economic opportunities, particularly as it relates to the exploration, development and production of our offshore oil & gas resources. In that spirit, the Act must be consistent throughout when discussing matters relevant to the public interest determination. Socio-economic factors, more specifically jobs and the economy, must be consistently referenced within the Act as part of the public interest determination considerations.

The response of Noia to Bill C-69 will address concerns regarding the provisions related to (1) the role of Offshore Boards considering, i) the project list, ii) jurisdictional cooperation, and iii) regional and strategic assessments, (2) timelines, (3) uncertainty in transitional provisions, and (4) Indigenous and Special Interest Consultation.

## **1). Role of the Offshore Boards**

### *i) Project List*

In the consultation paper on the Approach to Revising the Project List, it is suggested offshore exploratory wells could potentially be excluded from assessment where a regional assessment has been undertaken and approved by the Minister. The paper further states, “If a project type has well defined standard mitigation measures that are always adopted as a matter of practice are subject to stringent federal or provincial regulatory requirements and have proven to be effective in mitigating the effects then these would be considered when determining the potential nature of those effects.” The position of Noia is that exploration wells should be removed from the project list and the Accord Acts' environmental assessment (EA) process should be utilized. Federal environmental regulations have been in use in the province for decades. As well, the C-NLOPB has the expertise in this field as they have completed a significant number of EAs on numerous exploration programs. Each exploration well is typically a 60 to 90-day activity, often occurring in an already highly explored area and does not have the same environmental impact of a pipeline project or a nuclear energy project. Accordingly, for all these reasons, offshore exploration drilling in the Accord Acts areas should be excluded from the Designated Project List.

*ii). Jurisdictional Cooperation*

The Act states that the Minister must “offer to consult and cooperate” with the Offshore Boards with respect to impact assessments of Designated Projects that include activities regulated under the Accord Acts and it is required in the legislation that these be assessed by a Review Panel. Noia feels projects listed under the Designated Project List that are regulated under the Accord Acts should not automatically warrant a review panel. For example, project types such as subsea tiebacks and geophysical surveys have well defined standard mitigation measures as well as stringent federal regulatory requirements that are proven to be effective in mitigating potential impacts. Even the recent, very sophisticated Hebron project was not assessed by a review panel. It is the strongly held view of Noia that an impact assessment review panel for environmental assessment should not be automatic and that a separate substitution process should be permitted under the Act so that an alternative to a review panel can be conducted. This will continue the long tradition of carrying out assessments with the support and involvement of the C-NLOPB; a process that has worked well in the past and contributed to the collective understanding of environmental impacts and mitigations. Jurisdictional cooperation (including the role of the C-NLOPB) has been a key factor in assessments conducted pre-CEAA 2012 and will be more important under the proposed Act.

Section 32 (b) of the Act precludes the Minister from approving a substitution process when a designated project includes activities regulated under the Accord Acts. Noia asserts the reference to the Accord Acts should be removed from this section of the Act. As previously stated in this submission, the C-NLOPB has extensive experience in, and has developed a deep knowledge of, the Newfoundland and Labrador offshore industry. The C-NLOPB was created to jointly manage and regulate the offshore between the jurisdictions of Canada and Newfoundland and Labrador and has successfully done so since its inception in 1985. To overlook this expertise would be detrimental to the offshore industry, not just in terms of exploration and development, but also in terms of safety and the environment. All three of these components form the core of the C-NLOPB mandate. Noia recommends the removal of the references to the Accord Acts from Section 32 (b) to allow the continuation of

a proven process jointly managed by two jurisdictions through the C-NLOPB.

### *iii). Regional and Strategic Assessments*

Bill C-69 does not reflect provisions for conducting Regional Assessments or Strategic Assessments, nor does it provide definitions or mandated timelines. Under the provisions in the draft legislation, the Offshore Boards have no authority to conduct Regional Assessments (RA) and the decision to conduct an RA is at the Minister's discretion. As well, the Impact Assessment Agency of Canada (the Agency) is responsible for impact assessments unless the Minister has referred the project to a review panel or a joint review panel or the Minister has approved a substitute process for the project. There are no triggers or mechanisms for strategic or regional assessments, nor any criteria for when a regional or strategic assessment may be warranted. As well, there is no definition, decision-making process, or guidance on the process or how the results of a regional or strategic assessment will be used in future projects. Noia believes the new Act should establish clear regulation, making provisions to address these issues and support cooperation with provincial governments and lifecycle regulators.

The Offshore Boards must also be involved in a joint process for regional and strategic assessments to ensure clarity and certainty, and to reduce timelines. Strategic Environmental Assessments (SEAs) previously conducted by the CNLOPB are thorough and include mitigation measures. This should be recognized within the Act with respect to ongoing regional assessments so that duplication is avoided and the process can continue to progress.

## **2). Timelines**

Timelines and the related provisions in the Act are of great interest to Noia as they can have an impact on the timely exploration for, and development of, new petroleum discoveries. Five exploration programs are currently being assessed under CEAA 2012 and of these five, three submitted project descriptions in August or September 2016 – now over 600 days since submission. This does not include the time it has taken to get an accepted Project Description, which Noia understands has

increased the total time by several months.

The Scotian Basin Exploration Drilling Project EA decision (Feb 1, 2018) took 897 days from the submission of the Project Description on August 19, 2015, or almost 2.5 times the legislated timelines. Provisions 18 and 78 in the Act include 180 days for early planning, followed by a maximum of 330 days, including Decision Statement with an assessment by the Agency, and 690 days when by review panel. This is longer in comparison to the CEAA regulated timeline which is 410 days including Project Description screening and the EA Decision Statement with an agency review, and 720 days by Review Panel. While the timeline for the review of an Impact Assessment document may be shorter under the proposed Act than for an EIS document review under CEAA 2012, the overall time from project initiation to final approval will be longer. If exploration drilling remains on the designated list and is done via a Review Panel, the total time elapsed will more than double, from 410 days to 870 days. Noia feels this will have an extremely negative impact on the east coast offshore oil and gas industry. As previously stated, it is the position of Noia that exploration wells should not be on the project list and therefore not subject to Impact Assessment Act processes, thereby providing for a timely assessment process.

The timing of 180 days for the Planning Phase in the Act should be shortened. This timeframe is over three times the number of days currently provided under CEAA 2012 for providing project description and determination by the Agency. Also, a summary of issues should be provided as early as possible to a proponent in the Planning Phase to provide clarity and to ensure the process is not delayed. Further, there must be clarity and consistency between the legislation and the regulations, which currently does not exist in the drafts with respect to final documents of the Planning Phase. The legislation suggests these documents are final while the proposed regulations suggest further public commentary is required. This must be clarified and Noia recommends that the documents be considered final at the conclusion of the Planning Phase.

### **3). Uncertainty in Transitional Provisions**

There is tremendous uncertainty in the transitional provisions within the Act regarding environmental assessments initiated under CEAA 2012. Specifically, there must be more certainty provided and criteria developed outlining the point in the CEAA 2012 process for which a project may continue to be assessed under CEAA 2012 or deferred to the processes of the new Act. The current language regarding whether the proponent has collected the information or undertaken the studies required by the former agency, is subjective. Furthermore, a project under review that was required to convert to an IA would be transitioning from the Canadian Environmental Assessment Agency to a Review Panel and it is unclear whether the preplanning (180 days) would also apply. Again, it is the belief of Noia that this uncertainty could delay current exploration plans and subsequently lead to delays in future developments.

### **4). Indigenous and Special Interest Consultation**

Noia certainly respects the intention of the Act to consult with Indigenous peoples and special interest groups. Consultation should occur with said groups where scientific evidence demonstrates the likelihood of being directly impacted by the project. A list of groups for consideration as part of the consultation process must be defined early in the planning process to allow for certainty.

### **Conclusion**

Noia is certainly pleased to see that jobs and the economy are to be included in the impact assessment process. Again, Noia agrees that a clean environment and strong economy should go hand in hand. The value of the offshore oil & gas industry of Newfoundland and Labrador cannot be understated. In that context, an efficient review process which does not impede progress is critical for future growth.

To summarize:

- Offshore exploration drilling has well defined standard mitigation measures that have been adopted and developed over many years. Exploration wells have been subject to stringent federal regulations and have proven to be effective in mitigating any harmful effects and accordingly, should not be included on the Designated Project List.
- Review panels for offshore activities under the Accord Acts should not be an automatic assessment process, as is currently worded in the Act.
- A regulatory pathway for an alternative assessment should be required under the Act and a collaborative process with the Offshore Boards must be established. There should be provisions in the Act for jurisdictional cooperation to occur and this can be accomplished using the joint entity the C-NLOPB - as per the spirit of the Accord Acts - which has decades of accumulated experience and knowledge, as well as resource proximity. This experience and knowledge has been acquired through the environmental assessment of numerous exploration drilling programs offshore Newfoundland and Labrador.
- Removal of the Accord Acts from Section 32 (b) of the Act should occur to allow an alternate assessment process jointly managed by both jurisdictions through the CNLOPB.
- The proposed legislation does not provide the Offshore Boards with authority to conduct regional assessments and the Agency is not required to include the boards in regional assessments in the offshore. The new act should establish clear regulations and support cooperation with provincial governments and lifecycle regulators to avoid duplication.
- As the federal government transitions from the current legislation to the new legislation, criteria must be developed to ensure those engaged in the process clearly understand the process, the timelines, and the information required.
- Consultation should occur with Indigenous peoples and special interest groups where scientific evidence demonstrates the likelihood of those groups being directly impacted by the project. A list of groups for consideration as part of the consultation process must be defined early in the planning process to allow for certainty.

- Timelines must not impede the development of a critical industry to Newfoundland and Labrador and Canada. Noia is concerned that the proposed process will extend approval timeframes and negatively impact future growth of the industry.

On behalf of its nearly 600 members, Noia would like to thank the Government of Canada, through the Canadian Environmental Assessment Agency, for the opportunity to review the proposed legislation and the House of Commons Standing Committee on Environment and Sustainable Development for the opportunity to provide feedback on this extremely important matter. It is the intention of Noia to provide information which leads to the development of an Impact Assessment Act that considers the best interest of our environment and the future development of our offshore oil & gas industry in Newfoundland and Labrador. Noia strongly supports continued offshore development occurring in a manner which protects our environment, the place where we live and work. The economic stability of our province depends upon it.