

Explanatory Note

The National Energy Board and the Nova Scotia Utility and Review Board have entered into an agreement, in the form of the attached Memorandum of Understanding (MOU), to share certain information and resources relating to regulation and oversight of certain petroleum hydrocarbon and natural gas facilities in Nova Scotia. Details are included in the MOU itself.

This agreement is significant in that cooperation between the regulators can provide greater regulatory efficiencies and certainty to companies who own and/or operate processing plants within the province.

Inquiries relating to this MOU can be directed to:

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Note explicative

L'Office national de l'énergie et la Commission des services publics et d'examen de la Nouvelle-Écosse ont conclu une entente, soit le protocole d'entente ci-joint, pour le partage de renseignements et de ressources ayant trait à la réglementation et à la surveillance de certaines installations de traitement d'hydrocarbures pétroliers et de gaz naturel en Nouvelle-Écosse. Les particularités sont énoncées dans le protocole d'entente.

L'entente est importante car la coopération entre les autorités de réglementation accroît l'efficacité et offre plus de certitude sur le plan de la réglementation aux sociétés qui possèdent ou exploitent des usines de traitement dans la province.

Prière d'adresser toute question relative au présent protocole d'entente à :

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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
NATIONAL ENERGY BOARD
AND THE
NOVA SCOTIA UTILITY AND REVIEW BOARD**

I. PURPOSE

The National Energy Board (NEB) of Canada and the Nova Scotia Utility and Review Board (NSUARB) (together, "the Parties") enter into this Memorandum of Understanding (MOU) to:

- A) enhance cooperation and coordination between the Parties for the purpose of providing regulatory oversight of the construction and operation of certain petroleum hydrocarbon facilities in Nova Scotia (NS);
- B) cooperate in the gathering and sharing of intelligence and information gained through inspection, audit and other compliance activities in the areas of safety, engineering, and emergency management for the gas plant operated by Exxon Mobil in Goldboro, NS; and
- C) establish a protocol for coordinating training and technical liaison in areas of common interest between the Parties.

II. BACKGROUND

The NEB regulates aspects of the energy industry in Canada including (but not limited to) the construction and operation of inter-provincial and international pipelines; pipeline traffic, tolls and tariffs; the construction and operation of processing plants which form part of and are integral to the operation of federally regulated pipeline facilities; and Frontier oil and gas activities.

The NSUARB regulates aspects of the energy industry in Nova Scotia including (but not limited to) the construction and operation of pipelines used for the distribution and transmission of petroleum hydrocarbons within the province of Nova Scotia as well as the operation of gas processing facilities within the province of Nova Scotia.

The plants in Goldboro, NS and Point Tupper, NS form part of a pipeline and processing system designed for the production and transmission of petroleum hydrocarbons, aspects of which are regulated by the Parties. The Parties recognize that the exercise of their respective mandates requires them to examine, regulate, or otherwise oversee interconnecting pipelines, pipeline facilities or activities. The Parties further recognize that appropriate cooperation in the development and implementation of regulatory programs could provide greater regulatory certainty to companies who own and/or operate and processing plants within Nova Scotia.

III. TERMS OF AGREEMENT

- A) Cooperation and Coordination on Safety, Engineering and Emergency Management

- i. When either Party undertakes a compliance verification activity (e.g. inspection, audit or compliance meeting) on any company operating processing plants or pipeline systems that contain elements which are regulated by both Parties (e.g. the gas processing facility situated in Goldboro, NS and the fractionation plant situated in Pt. Tupper, NS), they will notify the other party in advance of the activity, where possible, and provide an opportunity for participation in the activity.
- ii. All inspection reports resulting from any compliance verification activity meeting the description in A(i) shall be shared between the parties within 14 days of the completion of the activity.
- iii. All audit reports resulting from any compliance verification activity meeting the description in A(i) shall be shared between the parties once available in draft form.
- iv. Notification of incidents or events (e.g. leaks, injuries, accidents, etc.) reported by companies meeting the description in A(i) shall be shared between the parties as soon as practical.
- v. Coordination of compliance verification activities under A(i) shall be the responsibility of the Business Unit Leader of Operations at the NEB and the Advisory Group Team Leader at the NSUARB.
- vi. When either party commences an enforcement action on a processing plant or pipeline system that qualifies under A(i), the party commencing the action will notify either the NEB Business Unit Leader, Operations or the NSUARB Advisory Group Team Leader as appropriate.

B) Training and Technical Cooperation

- i. The Parties will examine and pursue areas or opportunities where training and technical cooperation and collaboration would minimize duplication of effort, more effectively or efficiently use existing staff and technical knowledge, reduce regulatory burden, achieve consistency in methodologies and approach, and set the tone for cooperative efforts.
- ii. The Parties will pursue technical exchange of staff as considered suitable and appropriate.

IV. INFORMATION EXCHANGE

- A) To the extent any investigation reports, findings and company intelligence are shared in furtherance of the purposes of this MOU, each party shall protect any non-public records or portions thereof provided by the other party from unauthorized disclosure in accordance with applicable law, if possible, and shall obtain the consent of the providing party before disclosing any confidential information.
- B) Both Parties agree that they will specify when information they provide is being submitted “in confidence” so that that the receiving Party continues to treat these materials confidentially in accordance with the federal *Access to Information Act*, the Nova Scotia *Freedom of Information and Protection of Privacy Act, 1993, c. 5, s. 1* or other applicable legislation.

V. COSTS

- A) Cost recovery for activities associated with this agreement is not part of this MOU and will be negotiated individually where agreed to by the parties.
- B) The Parties will cover all relevant costs for their respective staff involved in a technical exchange.

VI. LEGAL LIABILITY

- A) This MOU indicates the intentions of the NEB and the NSUARB, but does not create a contractual obligation between them.
- B) Nothing in this MOU or any annex shall be construed to conflict with current law, regulation, or directive of the NEB or the NSUARB. If a term of this MOU or any annex is determined to be inconsistent with such authority, that term shall be invalid to the extent of the inconsistency. The remainder of that term and all other terms shall remain in effect.
- C) Nothing in this MOU or any annex is intended to create any right or benefit, substantive or procedural, enforceable at law by any person or organization against either Party or their employees or lawful agents carrying out their duties pursuant to federal or provincial law.

VII. OTHER PROVISIONS

- A) Nothing in this MOU or any annex is intended to impose any funding obligations on either of the Parties. Nothing in this MOU or any annex is intended to diminish or otherwise affect the authority of either party to carry out its statutory, regulatory or other official functions or to commit either party to providing a particular service they would not otherwise provide in the scope of each party's individual mission and functions.
- B) This MOU and any annexes hereto may be amended or modified at any time by written agreement of the Chair of the NEB and the Chair of the NSUARB.
- C) Should disagreement arise on the interpretation of any provision of this MOU or any amendments and/or modifications thereto that cannot be resolved at the staff level, the area(s) of disagreement shall be stated in writing by each Party and presented to the other Party for consideration. If agreement on interpretation is not reached within thirty days, the Parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

VIII. PRINCIPAL CONTACTS

The Parties designate the principal contacts identified in Attachment A. Each Party's contact may be changed at its discretion upon notice to the other party.

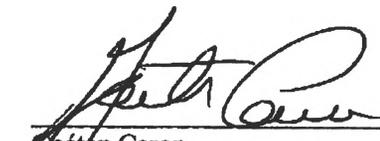
IX. EFFECTIVE PERIOD/TERMINATION

This MOU will be effective as of the date of final signature by both of the Parties and will remain in effect until terminated by either Party. Either Party may terminate this MOU and any annexes hereto upon written notice to the other party and upon any ground.

X. PERIODIC REVIEW/CONSULTATION

The Parties agree that on an annual basis the appropriate staff from both organizations will meet to review the content and continued relevance of this MOU. Proposals for changes to this MOU can be made at any time, and appropriate amendments made as may be agreed upon.

APPROVED BY



Gaétan Caron
Chair and CEO
National Energy Board

June 18, 2009
Date



Peter W. Gurnham, Q.C.
Chair
Nova Scotia Utility and Review Board

July 16 2009
Date

ATTACHMENT A: PRINCIPAL CONTACTS

The following are the principal initial contacts for each party:

National Energy Board

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Operations Business Unit
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