

ANNEX “B”

COMPLIANCE AND ENFORCEMENT

OPERATIONAL ANNEX BETWEEN

THE CANADIAN ENERGY REGULATOR (CER)

AND

ENVIRONMENT AND CLIMATE CHANGE CANADA (ECCC)

(THE “PARTICIPANTS”)

This Operational Annex is made pursuant to and forms an integral part of the Memorandum of Understanding (MOU) between ECCC and the CER effective October 17, 2024. In the event of any inconsistency between this Operational Annex and the MOU, the MOU prevails.

1.0 Purpose

This Operational Annex sets out the intended administrative and operational arrangements between the Canada Energy Regulator (CER) and Environment and Climate Change Canada (ECCC), hereinafter referred to as the "Participants," concerning cooperation related to the administration and enforcement of federal laws within their respective mandates.

The arrangements under this Operational Annex are to be carried out under the Participants’ legislative authorities—including, for the CER, the *Canadian Energy Regulator Act*, *Canada Oil and Gas Operations Act*, and, for ECCC, the *Fisheries Act*, *Canadian Environmental Protection Act, 1999*, *Migratory Birds Convention Act, 1994*, and *Species at Risk Act* — as they apply to CER-regulated activities and CER-regulated facilities.

The Participants intend that this Operational Annex will:

- (a) facilitate the sharing of Data, Information and Intelligence relating to regulatory oversight activities, compliance and enforcement files; and
- (b) support potential coordination, cooperation, and the provision of support in the event of an inspection or investigation relating to a federally regulated activity or incident that may trigger both Participants’ respective legislation.

Nothing in this Operational Annex alters the legislative or regulatory powers, authorities, responsibilities or mandates of the Participants, nor does it create any legally binding obligations or rights.

For greater clarity, nothing in this Operational Annex would be interpreted as:

- Hindering or replacing best practices or existing operational arrangements with other organizations in effect between the Participants;
- restricting either Participant's existing or future arrangements with other organizations; or limiting the ability of either Participant to take enforcement actions pursuant to its legislation.

2.0 Term and Withdrawal

This Operational Annex will commence and take effect on the Effective Date, being the date of the last Participant's signature.

This Operational Annex will remain in effect for ten (10) years from the Effective Date.

Upon expiry of the initial ten (10) year term, this Operational Annex will automatically renew for successive one (1)-year periods unless either Participant gives at least sixty (60) days' written notice of its intention not to renew.

This Operational Annex will terminate upon the earlier of:

- withdrawal by either Participant at any time, by providing at least sixty (60) days' written notice to the other Participant; or
- expiry or termination of the overarching MOU.

3.0 Definitions

"CER-regulated activities" means activities regulated by the CER under the *Canadian Energy Regulator Act, Canada Oil and Gas Operations Act and Oil and Gas Operations Act*.

"Data" means presentations of Information, in any form.

"Effective Date" means the date on which the last Participant signs this Operational Annex.

"Federally Regulated Activity" means an activity or operation governed by federal laws or overseen by a federal agency or regulator as established by their respective mandates.

"Information" means records or Data in any form, whether oral or written, whether readable by a person or machine, and whether capable of being transmitted by mail, telephone, facsimile, computer or any other physical or electronic means. It also includes Business Information and Personal Information.

“Intelligence” means any product resulting from the processing, assessing and analyzing of Information and Data.

“Memorandum of Understanding” or **“MOU”** means the Memorandum of Understanding between CER and ECCC effective October 17, 2024, and includes the recitals and all the Operational Annexes attached.

“Operational Annex” means operational policies and procedures for Participants to follow in alignment with the purpose, terms and scope of the overarching MOU.

4.0 Areas of Cooperation Related to Compliance and Enforcement

4.1 Information Sharing

Participants intend to collaborate by sharing Data, Information and Intelligence, as permitted by law, to support each Participant’s responsibilities under their respective legislative mandates. For greater certainty, the sharing of Information under this clause may include the sharing of Personal Information, where permitted by law.

Any information shared within the scope of this agreement must be used for the purpose for which it was collected or for a use consistent with that purpose.

Both Participants agree to notify the other Participant, in a timely manner, when they become aware of an alleged non-compliance that may trigger the other Participant’s legislation.

With the goal of proactive engagement and enabling closer collaboration in areas of mutual concern, the Participants may share:

- Information and Data proactively, and when the Information and Data relates to overlapping areas of responsibility within their respective mandates.
- Intelligence that may be relevant to the Participants’ ongoing priorities or investigations, within their respective mandates, including that relating to known entities of concern.

The following Data and Information will not be provided to the other Participant under this Operational Annex:

- a) Information provided by a foreign government, customs administration or organization of a foreign government, unless the foreign government, customs administration or organization that provided the Information authorizes the CER or ECCC in writing to disclose the Information it provided to the other Participant;
- b) Indigenous knowledge provided in confidence¹ to the CER by a third party, unless the Indigenous knowledge is publicly available or written consent is

¹ CER Act, 58 (1) Any Indigenous knowledge that is provided in confidence to the Regulator under this Act or any other Act of Parliament that confers powers, duties or functions on the Regulator is confidential and must not knowingly be, or be permitted to be, disclosed without written consent.

- received to disclose the information to ECCC;
- c) Confidential information provided by a third party unless disclosure is authorized in writing;
 - d) Information subject to solicitor/client privilege;
 - e) Information the disclosure of which is prohibited by a treaty or convention under international public law; or
 - f) Information that may compromise a law enforcement activity or investigation.

The Participants agree to notify each other promptly of any legally compelled disclosure (e.g., subpoenas or court orders) involving Data, Information or Intelligence supplied by the other and will consult each other before any further disclosure is made, to the extent permitted by law.

In the event one of the Participants receives a request under the *Privacy Act* or the *Access to Information Act* for Data, Information or Intelligence provided by the other Participant pursuant to this Operational Annex, the Participant receiving the request shall promptly notify the other Participant of the request for their review and approval before release of any Information.

The Participants agree to protect the confidentiality of the Data, Information and Intelligence provided by the other Participant in accordance with relevant legislation, and to respect all applicable legal constraints related to the sharing of Data, Information and Intelligence.

4.2 Support for Inspections and/or Investigations

Subject to operational capacity, legal authorities, confidential circumstances and priorities, the Participants may consider requests for support related to inspections or investigations which relate to their respective mandates.

Requests for support will be coordinated, discussed, and agreed to between the ECCC Enforcement Branch, Regional Directors of the Wildlife Enforcement Directorate and Regional Directors of the Environmental Enforcement Directorate and CER Systems Operations or Field Operations.

Unless otherwise prohibited by law or due to circumstances requiring confidentiality related to further investigations, the Participants agree to share enforcement-related Information where such Information relates to a Participant's responsibilities within its mandate.

Support, where appropriate, may include:

- providing Intelligence on matters that may be of interest to a Participant and related to its mandate;
- coordinating joint field inspections and investigations;
- providing updates on mutual files of interest that have been actioned;

- review and learn activities or presentations on completed files for educational purposes; providing subject matter expertise in reviewing technical information, assistance with identifying and providing experts for court proceedings, and assistance with taking measurements, and/or conducting sampling activities for evidence collection.

In the event of an incident which triggers an inspection and/or an investigation under the legislation of both Participants, the Participants agree to discuss a coordinated approach to joining forces to conduct a joint inspection or investigation.

In such cases, the Participants will determine roles, responsibilities, and points of contact to ensure efficiency and avoid duplication.

4.3 Training

The Participants may inform each other of any training needs for their officials and may explore opportunities to jointly develop and cost-share training sessions, where possible, for the implementation of programs related to this Operational Annex. Particulars of cost-sharing arrangements, should they arise, will be subject to a separate agreement.

5.0 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	FOR ECCC
Vice President System Operations Canada Energy Regulator 517 10th Avenue SW Calgary, AB T2R 0A8	National Operations Executive Director Environmental Enforcement Directorate Environment and Climate Change Canada 351, boul. St Joseph, 10th floor Gatineau (Québec) K1A 0H3

6.0 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 5.0 of this Operational Annex. If negotiation fails to resolve the dispute, the Participants will

refer the matter to the supervisors of the Departmental Representatives in Section 9.1 of the overarching MOU.

7.0 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).

8.0 SIGNATURE

Canada Energy Regulator

**Environment and Climate Change
Canada**

Vice President, System Operations

Director General Environmental
Protection Operations Directorate

Vice President, Field Operations

Director General
Environmental Enforcement Directorate

Date signed: _____

Director General
Wildlife Enforcement Branch

Date signed: _____