

**JOINT GUIDELINES REGARDING  
APPLICATIONS  
FOR  
SIGNIFICANT OR COMMERCIAL  
DISCOVERY DECLARATIONS  
AND AMENDMENTS**

**May 2003**

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## DESCRIPTIVE OVERVIEW

### 1. INTRODUCTION

In this document, Joint Guidelines Regarding Applications for Significant or Commercial Discovery Declarations and Amendments, Board refers to the Canada-Newfoundland Offshore Petroleum Board (C-NOPB) in respect of petroleum related activities in the Newfoundland and Labrador offshore area and the Canada-Nova Scotia Offshore Petroleum Board (C-NSOPB) in respect of petroleum related activities in the Nova Scotia offshore area.

As part of the evolution of exploratory and development rights in the offshore area, the *Canada-Newfoundland Atlantic Accord Implementation Act*, the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* ("the Acts") allow for the declaration of significant and commercial discoveries ("SDD/CDD"). In an effort to provide guidance to industry with respect to the process implemented by the Board in reviewing the merits of significant and commercial discovery applications, the Board has prepared these Guidelines following consultation with industry and governments. To ensure responsiveness, these Guidelines may be reviewed from time to time, and where necessary, updated. As part of any planning process for activity in the offshore area, contact should be made with the appropriate departments of the Board to confirm the status of these Guidelines and any legislative requirements.

The following are some particular aspects of these Guidelines which are worthy of some introductory comments:

a) **Flexibility**

These Guidelines are not intended to be considered as rigid or assuming the character of regulations. The object is to address matters respecting significant and commercial discoveries using a basis which is fair, consistent, and legally sound. For example, at any stage during the process the Applicant or the Board should feel free to request that the matter be brought back to the technical review stage (refer to para. 3(c)) where it is felt that a resolution or conclusion may be reached without proceeding to or continuing with a formal Hearing;

b) **Time Objectives**

In an effort to establish closure respecting the evaluation of Applications, the Board has set out time objectives for each stage of the process as indicated by the Flow Chart Overview found on page 8. Prospective Applicants should note that in the case of an **Application for a Significant Discovery Declaration/Amendment or an Application for a Commercial Discovery Declaration/Amendment**, unless otherwise agreed to by the Board, the Application must be submitted within six months following rig release of the drilling unit respecting the prospective discovery well, or six months prior to the scheduled expiry of the Exploration Licence, whichever occurs later. This is to ensure that the Board can also plan and administer a land tenure system with a greater sense of predictability and efficiency;

c) **Confidentiality**

All information provided by an Applicant is subject to the confidentiality provisions of the Acts (C-NOPB: refer to s. 119 in Attachment 11; C-NSOPB: refer to s. 122 in Attachment 11);

d) **Criteria for Significant/Commercial Discovery Declarations**

Prior to submitting an application, the Applicant should carefully review the **Criteria for a Significant or Commercial Discovery Declaration** which will deal with the criteria (i.e. factors considered, standard of proof, general expectations etc.). The criteria is outlined in Attachment 1 below.

e) **Presentations by Board Representatives**

Para. 8 is intended to allow a Board Representative to present at the Hearing, any position which he or she feels should be included as part of the evidentiary material for the consideration of the Review Panel. Any such position will of course be provided as part of the Record sufficiently in advance of the Hearing to allow adequate response by the Applicant. Presentations by Board Representatives should not be construed as becoming necessarily a practice;

f) **Board Initiative Regarding Discoveries**

The Acts also permit the Board to take the initiative in declaring, amending or revoking a significant or commercial discovery. Any action taken by the Board for these purposes will follow a process as described by these Guidelines, subject to any modifications as may be required under the circumstances.

## 2. FLOW CHART OVERVIEW

A flow chart of the procedures regarding an application for a significant or commercial discovery declaration/amendment is provided on page 8. Included as part of that flow chart are the time objectives for each stage of the process. What follows in this portion is a descriptive account of that process.<sup>1</sup>

## 3. PRELIMINARY PREPARATIONS

Prior to submitting an application for a declaration or amendment of a significant or commercial discovery ("Application"), the interest holder is advised to inform the Board of its intentions so that the following steps may be taken as soon as possible:

- (a) A copy of the **Joint Guidelines Regarding Applications for Significant or Commercial Discovery Declarations and Amendments** will be sent to a representative of the Applicant;
- (b) The Chief Executive Officer ("CEO") will designate Board Representatives (legal/technical)

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<sup>1</sup> Pursuant to section 70 (C-NOPB) or section 73 (C-NSOPB) of the Act, although the term for an exploration licence is 9 years, the term can go beyond that period if the drilling of a well is commenced prior to the expiry date.

from among the Board employees. In the event the Application gives rise to a formal hearing as dealt with in para. 4 below ("Hearing"), these Board Representatives would perform their respective functions as provided in Attachment 4 entitled **Logistical and Clerical Requirements for a Hearing**;

- (c) A **Notice of Preliminary Technical Review** in the form provided in Attachment 5 will be sent to the Applicant once the Application has been completed and submitted in accordance with the requirements and in the form specified in Attachment 2 or 3, as the case may be. At the Preliminary Technical Review the Board Representatives will consult/meet with the Applicant's representatives on an informal basis for the purposes of:
- discussing the required criteria in determining the existence of a significant or commercial discovery as the case may be;
  - generally reviewing and discussing the Application;
  - identifying the actual or potential issues arising from the evidentiary material provided;
  - understanding any technical differences of opinion which may arise between any Board Representative and a representative of the Applicant;
  - establishing the Record and identifying any further supplementary information which may be required;

Preliminary consultation may also take the form of discussions/correspondence between individuals or among a group or sub-groups of the respective representatives either prior to or following the Preliminary Technical Review. The primary objective of this part of the process is to enable the Board Representatives to advise the CEO of any substantive issues arising from the Preliminary Technical Review, which may be relevant to the merits of the Application.

#### 4. REPORT TO CEO

- (a) Once the steps outlined above have been completed, a written report will be provided by the Board Representatives to the CEO within which the Board Representatives will express their opinion as to whether any substantive issues have arisen which are relevant to the merits of the Application. A copy of this report will become part of the Record and will be sent to the Applicant. Having regard to the issues (if any) raised in the report, the CEO will make a recommendation to the Board regarding the holding of a Hearing;
- (b) If the CEO believes there are no substantive issues arising from the review as provided by the report from the Board Representatives, he will make a recommendation for Board approval that a Hearing not take place, and that an SDD/CDD be made or amended as requested. If approved by the Board, this will require the issuance of a **Notice of Proposed Decision** in the form provided in Attachment 6 (refer to para. 9 below);
- (c) If the CEO believes that substantive issues have arisen and the Board approves a recommendation that a Hearing be held, the Board will appoint a Review Panel and a Chairman from among the Board members to hear the Application. Ordinarily, the Review Panel will be comprised of all the Board members. This appointment will include authority for the Review Panel to hear, deliberate and decide on behalf of the Board, particularly if for some reason the Review Panel does not comprise all Board members.

## 5. PRE-HEARING CONFERENCE (PHC)

Where it has been decided by the Board to hold a Hearing, and unless the Board and the Applicant decide that a PHC will not be necessary, the Board shall issue a **Notice of Pre-Hearing Conference** in the form provided in Attachment 7. The PHC will be held for the purposes of:

- (a) understanding the substantive issues including any differences of opinion which may exist between a Board Representative and the Applicant on a particular aspect of the Application;
- (b) identifying the witnesses/participants who will participate in the Hearing;
- (c) reviewing the **Rules of Practice and Procedure** as provided in Attachment 9 regarding the Hearing;
- (d) confirming the Record including the number, sequence and identification of related exhibits for logistical and evidentiary purposes;
- (e) establishing the expected duration and date of the Hearing;
- (f) establishing the sequence of evidentiary material and witnesses that the Applicant and Board Representatives will present at the Hearing. This could also allow for any further clarification or explanation of the technical submissions;
- (g) providing the Applicant with a copy of any evidentiary material which a Board Representative intends to enter as part of the Record; and
- (h) identifying procedural issues.

The PHC will be chaired by a Board Representative and will be attended by the Applicant and the designated Board Representatives. A report summarizing the substantive events of the PHC will be prepared by Board Representatives, a copy of which will be sent to the Applicant for review and approval for the Record.

## 6. NOTICE OF HEARING

Following the PHC, copies of all documents which thus far form part of the Record will be sent to the Review Panel, following which a **Notice of Hearing** will be sent to the Applicant in the form provided in Attachment 8.

## 7. HEARING BY REVIEW PANEL

The Hearing will proceed as per the **Rules of Practice and Procedure** provided to the Applicant:

- (a) Opening Statement (Chairman/Legal Representative);
- (b) Resolution of Procedural Issues;

- (c) Applicant presents Submission
  - opening statement
  - witnesses attest to and explain the pre-filed evidence (panels of witnesses may be used and grouped according to technical expertise);
- (d) Board Representatives and Review Panel may examine Applicant regarding presentation;
- (e) Applicant Re-directs (ie. clarifies or corrects any matter);
- (f) Board Representatives may present evidence;
- (g) Applicant and Review Panel may examine Board Representatives regarding such presentation;
- (h) Board Representatives re-direct (i.e. clarifies or corrects any matter);
- (i) Board Representatives, Applicant and Review Panel may re-examine;
- (j) Applicant and Board Representatives make closing statements;
- (k) Closing Statement (Chairman).

In all cases, a Hearing transcript will be provided for the Record.

## 8. THE PROPOSED DECISION PROCESS

The following steps apply regarding the proposed decision process:

- a) **Deliberations** - It will be necessary for the Review Panel to begin deliberations as soon as possible after the close of the Hearing during which period strict confidentiality on the matter will prevail. Should the Review Panel wish to direct any questions to a Board Representative or the Applicant during the deliberation stage, the questions shall be submitted and responded to in writing with a copy of such questions and responses sent to the Applicant or Board Representatives respectively. Any involvement of Board Representatives must be entirely restricted to the Record and for the purpose of answering questions which will assist the Review Panel in understanding technical matters.
- b) **Proposed Decision-Making** - Following deliberations, the Review Panel must make a proposed decision and give notice to the affected parties. For the purposes of this portion of the process, affected parties would include any interest holder whose rights, in the Board's opinion, could be directly affected by the proposed decision. In the event the proposed decision does not allow for the making or amendment of an SDD/CDD as applied for, a **Proposed Decision Report** shall be prepared using a format as described in para. 8(c) below in which the Review Panel will articulate its conclusions, provide clear and adequate reasons for such conclusions, and restrict its reasons to evidentiary material provided at the Hearing. Once completed, a **Notice of Proposed Decision**, the **Proposed Decision Report** and a copy of the transcript will be sent to the Representative(s) of the affected parties.



In the event the proposed decision would allow for the making or amendment of the SDD/CDD as applied for, there would be no **Proposed Decision Report** and the Board will provide a **Notice of Proposed Decision** to the Applicant.

c) **Decision-Writing** - Where the Review Panel on behalf of the Board writes a **Proposed Decision Report**, the format and content will typically include:

- Introductory Pages:
  - title page
  - table of contents
  - recital and appearances (ie. who, when, where etc.)
  - abbreviations and definitions;
- Introduction;
- Application:
  - identifying the affected parties, what was applied for, and providing the essence of the supporting argument;
- Record and summary of the relevant evidence;
- Summary of the Review Panel's findings in regard to the issues with reasons. Reasons will be inclusive enough to show that the Review Panel addressed itself to the Applicant's arguments in resolving the issues;
- Formal disposition and signature page of the report;
- Appendices:
  - outline of the Record
  - other relevant information.

Once a proposed decision has been made and a draft of the **Proposed Decision Report**, has been prepared by the Review Panel, it will be circulated for input from appropriate Board employees regarding its format, references, completeness, consistency, technical/legal accuracy and integrity. In no way will any Board employee provide input respecting the merits of the proposed decision during the deliberation or decision-writing process.

## 9. REFERENCE TO THE OIL AND GAS COMMITTEE (OGC)

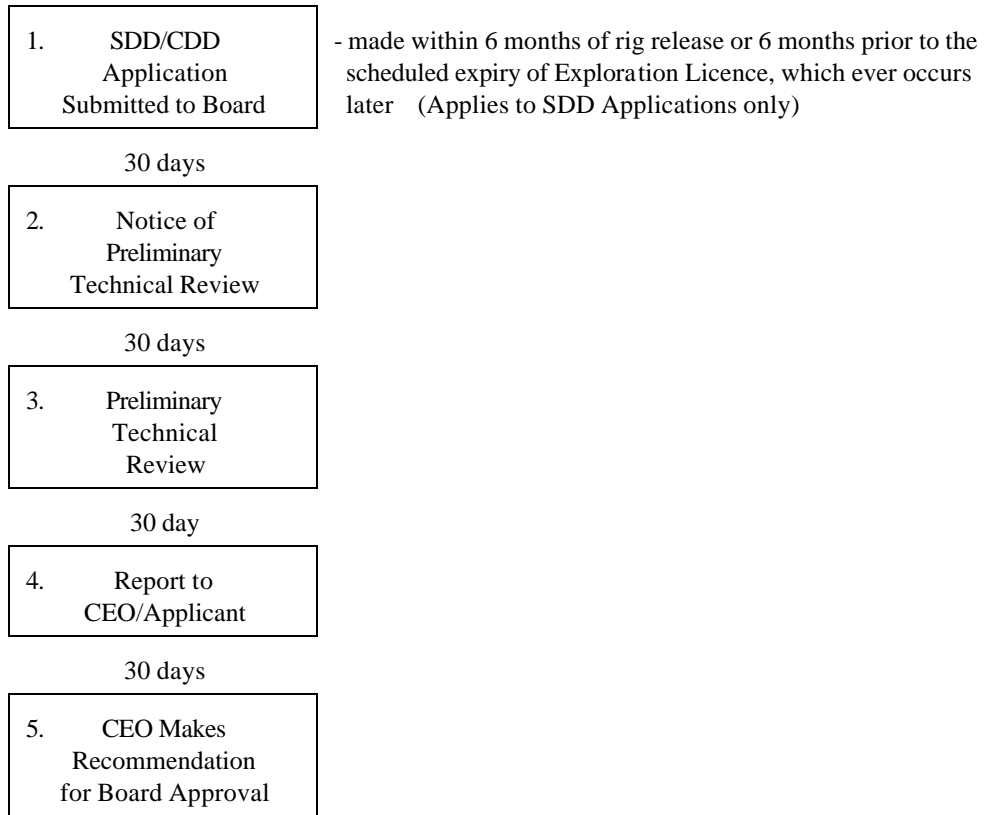
Once a **Notice of Proposed Decision** is issued (regardless of the result) the following sequence of events must occur pursuant to the Act:

- a) **30-Day Notice** - At least a 30-day **Notice of Proposed Decision** must be provided to the affected parties before the proposed decision takes effect;
- b) **Request for OGC Hearing** - Within the above notice period, an affected party may request an OGC hearing for the purposes of making representations and introducing witnesses and documents before the OGC. Where an affected party does *not* request an OGC Hearing during this notice period, the proposed decision as provided in the **Notice of Proposed Decision** becomes effective after the above notice period has expired. Where the

proposed decision is the making or amendment of an SDD/CDD, the Board will issue a **Significant/Commercial Discovery Declaration** in the format provided in Attachment 10;

- c) **Hearing of OGC** - Where an OGC Hearing is requested, the affected parties will be heard by the OGC which shall have the powers vested in a superior court of record. The OGC may establish rules of practice and procedure that are not inconsistent with the Acts for the purpose of conducting a Hearing. **In hearing the Application, if any new evidentiary material is presented to the OGC or otherwise arises subsequent to the Hearing by the Board, the proceedings with the OGC shall be suspended and the matter shall be referred back to the Board for further consideration.** Where an OGC Hearing is requested, the Board shall provide the OGC with a copy of all the documentation contained in the Special Documents file referred to in para. 1 of Attachment 4.
- d) **Recommendations by OGC** - Following the OGC Hearing, the OGC will provide a report including recommendations to the Board;
- e) **Board Decision** - Following receipt and consideration of the OGC report, the Board will make a final decision which will give rise to one of two possible results:
- in the event the final decision allows for the making or amendment of the SDD/CDD as applied for, the Board will issue or amend the **Significant/Commercial Discovery Declaration**, and provide the OGC report and recommendation and the OGC transcript to the Applicant;
  - in the event the final decision does *not* allow for the making or amendment of the SDD/CDD as applied for, a **Decision Report** will be prepared and provided along with the OGC report and recommendation, and the OGC transcript to the Applicant. The **Decision Report** will follow the same format and incorporate or be supplemental to the **Proposed Decision Report** referred to in para. 8(c) above;
- (f) **Judicial Review** - As provided under the Act, any decision respecting the making or amendment of the SDD/CDD is subject to judicial review and may be set aside by the S.C.N.L. (Trial Division). In concluding a **Decision Report**, a period of 30 days will be provided within which an action may be commenced by an affected party, where such party wishes to exercise its rights of judicial review.

**FLOW CHART OF SIGNIFICANT/COMMERCIAL DISCOVERY DECLARATION/AMENDMENT PROCEDURES**



6A. Proposed Decision: Make SDD/CDD

Go to Box 13

6. Board Requires Hearing

15 days

7. Notice of Pre-Hearing Conference

30 days

8. Pre-Hearing Conference

15 days

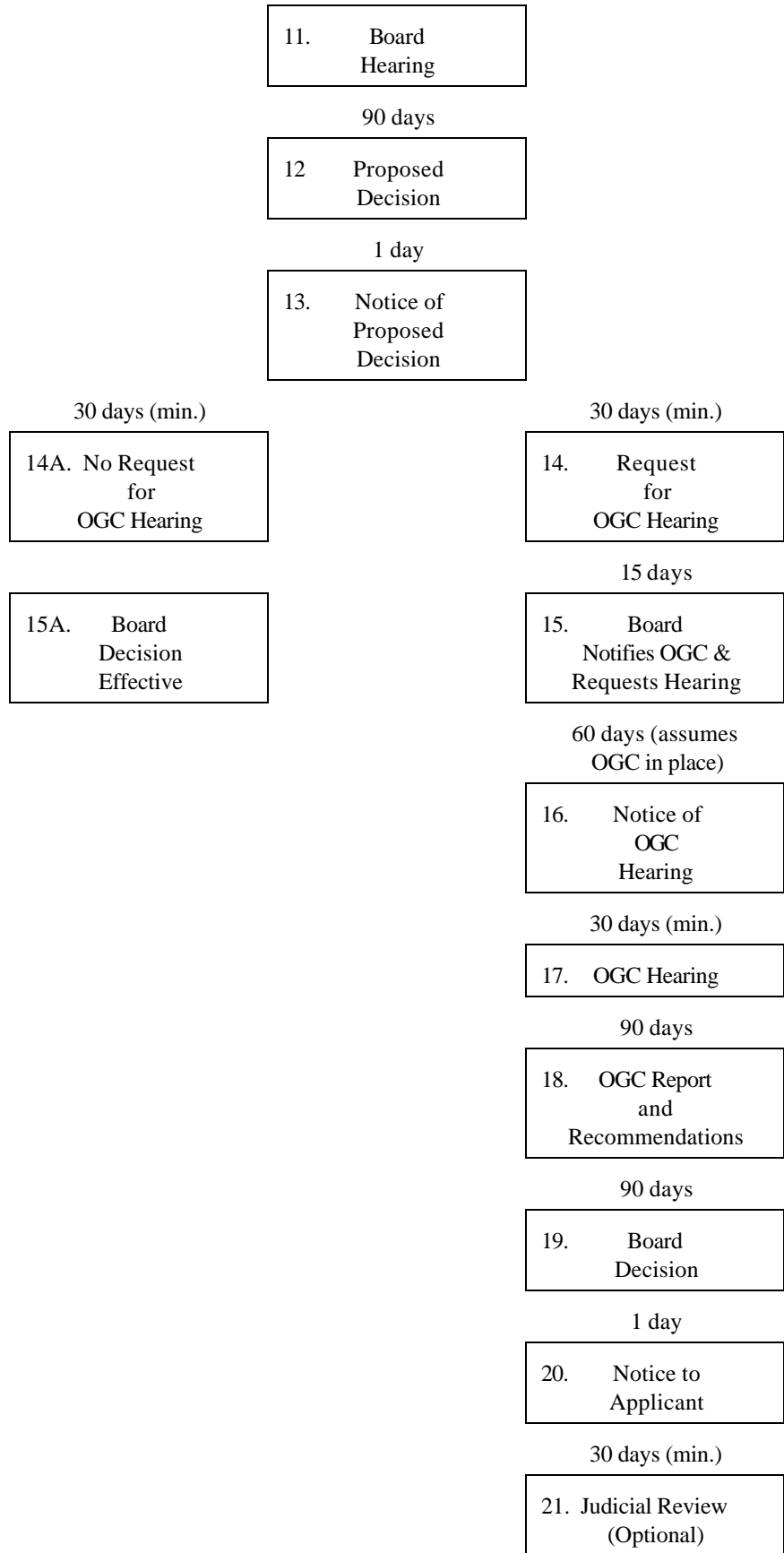
9. Report of Pre-Hearing Conference

30 days

10. Notice of Hearing

30 days (min.)

11. Board Hearing



## C-NOPB ATTACHMENT 1

### CRITERIA FOR A SIGNIFICANT OR COMMERCIAL DISCOVERY DECLARATION

#### 1. General Considerations

There are general considerations which are common to the review and evaluation of both significant and commercial discoveries. These may be set out as follows:

##### a) Reliability of Information

In supporting an application for a significant or commercial discovery, the applicant must provide reliable data, hypotheses and theories (the “Information”), based upon the factors required by the legislation. The Information must be scientifically valid and be grounded in methods and procedures in science which are accepted by the scientific community. The Information cannot be grounded on pure speculation. Where the Information is not reliable, the Board may refute it giving reasons why it does not meet the test of reliability.

##### b) Weighing Information

When presenting the technical merits of its application, the applicant is expected to apply reasonableness in giving weight to the Information. To the extent the Board believes that certain other data, hypotheses or theories outweigh those relied on in the Information provided by the applicant, it will say so in providing its reasons in a Decision Report.

##### c) Standard of Proof

In evaluating the merits of the Information submitted in support of the application, the Board will make a decision, on the balance of probabilities, as to whether it believes that such a discovery exists having regard to the criteria of a significant or commercial discovery as the case may be. How this is applied for each type of discovery is dealt with more specifically below.

##### d) The Extent of the Discovery Areas

The significant discovery area (SDA) and commercial discovery area (CDA) are defined under the Acts as those portions of the offshore area described in the declaration.

With respect to the size of an SDA or CDA, the Acts allow the Board to make a declaration in relation to those portions of the offshore area in respect to which there are reasonable grounds to believe that the discovery may extend. When determining the existence and the extent of a discovery, there is an extricable link between the criteria used to ascertain the existence of the significant discovery and the size and configuration of the SDA or CDA as the case may be.

Once a significant discovery declaration has been made, an interest holder of an exploration licence may apply for a significant discovery licence which will grant rights

from the seabed to petroleum basement in all portions of the SDA that are subject to the exploration licence or share.

## 2. Significant Discovery Declarations

### a) Criteria for a Significant Discovery

Under s. 47 of the C-NAAIA and C-NLAAINLA a *significant discovery* is defined as:

**a discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production;**

The main criteria for a significant discovery declaration may be summarized from this definition as follows:

- 1) **indicated by the first well on a geological feature** - each significant discovery must relate to a particular well and geological feature identified at the time of the application, such that any given geological feature can only support one significant discovery. A geological feature denotes a mappable closure (trap). It could be structural or stratigraphic in nature or a combination of structural and stratigraphic components. It could be bounded by faults, depositional or erosional edges, spill points or a combination of the above and may include several contiguous fault blocks. Although more than one well may be drilled on a particular geological feature, the significant discovery is indicated by the *first* well that meets all criteria;
- 2) **that demonstrates by flow testing the existence of hydrocarbons in that feature** - for the purpose of determining a significant discovery, the Board will require a formation flow test as defined in the *Newfoundland Offshore Petroleum Drilling Regulations* and detailed in sections 171 to 174 therein. This testing is intended to provide the substantive foundation upon which reliable data can be obtained to support an application for a significant discovery. The test should provide the applicant with the Information to satisfy the Board that the possibility of sustained production is more than unsupported speculation.
- 3) **geological and engineering factors** – this part of the definition effectively means that all reliable geological, geophysical, and engineering Information available at the time of the application will be considered;
- 4) **that suggests the existence of an accumulation of hydrocarbons that has potential for sustained production** - although accumulation and sustained production creates some connotation of volume and economics, the Information required is not intended to be commercially supportive in nature. This Information must include:
  - geophysical, geological and engineering data and interpretations supporting the extent of the accumulation;

- static well data in the form of core analysis, open-hole logs and pressure surveys from which fluid contacts and reservoir parameters have been derived leading to estimates of in-place and recoverable hydrocarbons;
- the results from formation flow testing whereby actual rates are measured and pressure recovery from produced volumes realized lending support to the potential for sustained production; and
- pressure transient data from formation flow testing whereby reservoir flow characteristics can be assessed and estimates of achievable and sustained rates can be obtained.

**b) The Test for a Significant Discovery**

In determining the existence and extent of a significant discovery, the test can be summarized as follows:

- the Information submitted by the applicant is reliable;
- flow testing demonstrates a discovery of hydrocarbons by establishing their existence within a particular feature; and
- when all available geological and engineering factors are weighed, there are reasonable grounds to believe that on the balance of probabilities there is a suggestion that an accumulation of hydrocarbons exists which has the potential for sustained production.

**c) Extent of Significant Discovery Area**

The Declaration of Significant Discovery captures the areal extent of the Significant Discovery Area as defined by the Acts.

**3. Commercial Discovery Declaration**

**a) Criteria for a Commercial Discovery**

Under s. 47 of the C-NAAIA and C-NLAAINLA, a commercial discovery is defined as:

**a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;**

In considering the criteria respecting a commercial discovery, there are two main parts to the definition:

- the petroleum discovery must be one which has been demonstrated to contain petroleum reserves; and
- the reserves are such that they justify the investment of capital and effort to bring the discovery to production.

It is noteworthy that a commercial discovery, unlike a significant discovery, is not

manifested or identifiable by the results of one particular well or with respect to one geological feature. In analyzing the meaning of commercial discovery, the main criteria may be summarized from the definition as follows:

**demonstrated to contain** - the word *demonstrate* means “to derive from admitted premises by steps of reasoning which admit of no doubt; to prove indubitably. To show or prove value or merits by operation, reasoning, or evidence” (Black’s Law Dictionary - 5th Ed.). The choice of words ***has been demonstrated***, insofar as the existence of petroleum reserves is concerned, indicates that there is no sense of futurity or what might be. It relates to past events which are in support of the Information which exists *now*;

**petroleum reserves** - in giving meaning to this term, the Board has adopted and applied petroleum reserves to mean *those volumes of hydrocarbons proven by drilling, testing and interpretation of geological, geophysical and engineering data, that are considered to be recoverable using current technology and under present and anticipated economic conditions*;

**justify the investment of capital and effort** - In considering this part of the definition, the petroleum reserves must be sufficiently commercial to justify the costs and effort to produce them. In practice, it makes sense that the applicant will take the initiative and assess whether or not there are economic merits to proceed with development and production of the discovery. That is not to say however that the Board, in exercising its own initiative to make such a declaration, could not take a position regarding justification for such an investment of capital and effort.

**b) The Test for a Commercial Discovery**

In determining the existence and extent of a **commercial discovery**, the test could be summarized as follows:

- the Information submitted by the applicant is reliable;
- based on that Information, there are reasonable grounds to believe that, on the balance of probabilities there exists a discovery of petroleum:
  - that has been demonstrated to contain petroleum reserves (i.e. *those volumes of hydrocarbons proven by drilling, testing and interpretation of geological, geophysical and engineering data, that are considered to be recoverable using current technology and under present and anticipated economic conditions*) and
  - that such reserves justify the investment of capital and effort to bring the discovery to production.

**c) Extent of Commercial Discovery Area**

The Declaration of Commercial Discovery captures the areal extent of the Commercial Discovery Area as defined by the Acts.



## C-NSOPB ATTACHMENT 1

### CRITERIA FOR A SIGNIFICANT OR COMMERCIAL DISCOVERY DECLARATION

#### 1. General Considerations

There are general considerations which are common to the review and evaluation of both significant and commercial discoveries. These may be set out as follows:

##### a) Reliability of Information

In supporting an application for a significant or commercial discovery, the applicant must provide reliable data, hypotheses and theories (the “Information”), based upon the factors required by the legislation. The Information must be scientifically valid and be grounded in methods and procedures in science which are accepted by the scientific community. The Information cannot be grounded on pure speculation. Where the Information is not reliable, the Board may refute it giving reasons why it does not meet the test of reliability.

##### b) Weighing Information

When presenting the technical merits of its application, the applicant is expected to apply reasonableness in giving weight to the Information. To the extent the Board believes that certain other data, hypotheses or theories outweigh those relied on in the Information provided by the applicant, it will say so in providing its reasons in a Decision Report.

##### d) Standard of Proof

In evaluating the merits of the Information submitted in support of the application, the Board will make a decision, on the balance of probabilities, as to whether it believes that such a discovery exists having regard to the criteria of a significant or commercial discovery as the case may be. How this is applied for each type of discovery is dealt with more specifically below.

##### d) The Extent of the Discovery Areas

The significant discovery area (SDA) and commercial discovery area (CDA) are defined under the Acts as those portions of the offshore area described in the declaration.

With respect to the size of an SDA or CDA, the Acts allow the Board to make a declaration in relation to those portions of the offshore area in respect to which there are reasonable grounds to believe that the discovery may extend. When determining the existence and the extent of a discovery, there is an extricable link between the criteria used to ascertain the existence of the significant discovery and the size and configuration of the SDA or CDA as the case may be.

Once a significant discovery declaration has been made, an interest holder of an exploration licence may apply for a significant discovery licence which will grant rights

from the seabed to petroleum basement in all portions of the SDA that are subject to the exploration licence or share.

## 2. Significant Discovery Declarations

### a) Criteria for a Significant Discovery

Under s. 49 of the C-NSOPRAIA and s. 54 of the C-NSOPRAI(NS)A a *significant discovery* is defined as:

**a discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production;**

The main criteria for a significant discovery declaration may be summarized from this definition as follows:

- 1) **indicated by the first well on a geological feature** - each significant discovery must relate to a particular well and geological feature identified at the time of the application, such that any given geological feature can only support one significant discovery. A geological feature denotes a mappable closure (trap). It could be structural or stratigraphic in nature or a combination of structural and stratigraphic components. It could be bounded by faults, depositional or erosional edges, spill points or a combination of the above and may include several contiguous fault blocks. Although more than one well may be drilled on a particular geological feature, the significant discovery is indicated by the *first* well that meets all criteria;
- 2) **that demonstrates by flow testing the existence of hydrocarbons in that feature** - for the purpose of determining a significant discovery, the Board will require a formation flow test as defined in the *Nova Scotia Offshore Petroleum Drilling Regulations* and detailed in sections 171 to 174 therein. This testing is intended to provide the substantive foundation upon which reliable data can be obtained to support an application for a significant discovery. The test should provide the applicant with the Information to satisfy the Board that the possibility of sustained production is more than unsupported speculation.
- 3) **geological and engineering factors** – this part of the definition effectively means that all reliable geological, geophysical, and engineering Information available at the time of the application will be considered;
- 4) **that suggests the existence of an accumulation of hydrocarbons that has potential for sustained production** - although accumulation and sustained production creates some connotation of volume and economics, the Information required is not intended to be commercially supportive in nature. This Information must include:
  - geophysical, geological and engineering data and interpretations supporting the extent of the accumulation;

- static well data in the form of core analysis, open-hole logs and pressure surveys from which fluid contacts and reservoir parameters have been derived leading to estimates of in-place and recoverable hydrocarbons;
- the results from formation flow testing whereby actual rates are measured and pressure recovery from produced volumes realized lending support to the potential for sustained production; and
- pressure transient data from formation flow testing whereby reservoir flow characteristics can be assessed and estimates of achievable and sustained rates can be obtained.

**b) The Test for a Significant Discovery**

In determining the existence and extent of a significant discovery, the test can be summarized as follows:

- the Information submitted by the applicant is reliable;
- flow testing demonstrates a discovery of hydrocarbons by establishing their existence within a particular feature; and
- when all available geological and engineering factors are weighed, there are reasonable grounds to believe that on the balance of probabilities there is a suggestion that an accumulation of hydrocarbons exists which has the potential for sustained production.

**c) Extent of Significant Discovery Area**

The Declaration of Significant Discovery captures the areal extent of the Significant Discovery Area as defined by the Acts.

**3. Commercial Discovery Declaration**

**a) Criteria for a Commercial Discovery**

Under s. 49 of the C-NSOPRAIA and s. 54 of the C-NSOPRAI(NS)A, a commercial discovery is defined as:

**a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;**

In considering the criteria respecting a commercial discovery, there are two main parts to the definition:

- the petroleum discovery must be one which has been demonstrated to contain petroleum reserves; and
- the reserves are such that they justify the investment of capital and effort to bring the discovery to production.

It is noteworthy that a commercial discovery, unlike a significant discovery, is not manifested or identifiable by the results of one particular well or with respect to one geological feature. In analyzing the meaning of commercial discovery, the main criteria may be summarized from the definition as follows:

**demonstrated to contain** - the word *demonstrate* means “to derive from admitted premises by steps of reasoning which admit of no doubt; to prove indubitably. To show or prove value or merits by operation, reasoning, or evidence” (Black’s Law Dictionary - 5th Ed.). The choice of words ***has been demonstrated***, insofar as the existence of petroleum reserves is concerned, indicates that there is no sense of futurity or what might be. It relates to past events which are in support of the Information which exists *now*;

**petroleum reserves** - in giving meaning to this term, the Board has adopted and applied petroleum reserves to mean *those volumes of hydrocarbons proven by drilling, testing and interpretation of geological, geophysical and engineering data, that are considered to be recoverable using current technology and under present and anticipated economic conditions*;

**justify the investment of capital and effort** - In considering this part of the definition, the petroleum reserves must be sufficiently commercial to justify the costs and effort to produce them. In practice, it makes sense that the applicant will take the initiative and assess whether or not there are economic merits to proceed with development and production of the discovery. That is not to say however that the Board, in exercising its own initiative to make such a declaration, could not take a position regarding justification for such an investment of capital and effort.

**b) The Test for a Commercial Discovery**

In determining the existence and extent of a **commercial discovery**, the test could be summarized as follows:

- the Information submitted by the applicant is reliable;
- based on that Information, there are reasonable grounds to believe that, on the balance of probabilities there exists a discovery of petroleum:
  - that has been demonstrated to contain petroleum reserves (i.e. *those volumes of hydrocarbons proven by drilling, testing and interpretation of geological, geophysical and engineering data, that are considered to be recoverable using current technology and under present and anticipated economic conditions*) and
  - that such reserves justify the investment of capital and effort to bring the discovery to production.

**c) Extent of Commercial Discovery Area**

The Declaration of Commercial Discovery captures the areal extent of the Commercial Discovery Area as defined by the Acts.

**C-NOPB ATTACHMENT 2**

**APPLICATION  
FOR A  
SIGNIFICANT DISCOVERY DECLARATION/AMENDMENT\***

Pursuant to s. 71 of the C-NAAIA and s. 70 of the C-NLAAINLA, \_\_\_\_\_, being an interest holder in \_\_\_\_\_, ("Applicant") hereby submits an application for a declaration/amendment\* of significant discovery as indicated by the \_\_\_\_\_ well ("Well") which the Applicant represents as the first well on the geological feature, more particularly described in the information outlined below, which satisfied the requirements of a significant discovery.

*\* The Applicant should appropriately modify the wording to indicate whether the Application is for a declaration or amendment.*

The Applicant further represents that it has included, or will include pursuant to item 16 as part of its application, the following prescribed information which is true, accurate and complete, and which may be found in the \_\_\_\_\_ copies of the enclosed documentation entitled **Application for a Significant Discovery Declaration Respecting the \_\_\_\_\_ Well, Dated \_\_\_\_\_** ("Application") as indicated below:

| <p align="center"><b>Application for a Significant Discovery Declaration<br/>Respecting the _____ Well</b></p>   | <p align="center"><b>Tab #</b></p> |
|--|------------------------------------|
| <p>1. Identification of the related interests, interest holders, representative(s), and legal description of the lands comprising the proposed significant discovery area ("SDA").</p>   |                                    |
| <p>2. An 8 1/2" x 11" plat(s) indicating the proposed SDA, outline of the hydrocarbon accumulation(s), the location of all wells within the proposed SDA, and the related interests which include the proposed SDA.</p>  |                                    |
| <p>3. A list of the names, title, phone and fax numbers of each representative of the Applicant who may be contacted regarding the Application.</p>  |                                    |
| <p>4. A written summary of the results of the discovery well for which the application is made, and of subsequent delineation wells, or, for an extension, of the results of further drilling including the items below and a description of the geological feature, hydrocarbon accumulation(s) and limits.</p>   |                                    |
| <p>5. Structure maps in time and converted to depth at a minimum scale of 1:50,000 for seismic markers at or near the top of each hydrocarbon-bearing reservoir included in the SDA. If isochron or isopach maps are used in constructing the above, these should also be provided. An explanation of the method of time to depth conversion should be included. Where isochron or isopach maps are used, they should show where applicable:</p> <ul style="list-style-type: none"> <li>(1) fluid contacts as derived from petrophysical and core analysis and/or pressure depth plots;</li> <li>(2) erosional or depositional limited of the reservoir units mapped; and</li> <li>(3) faults that are perceived to be sealing and non-sealing.</li> </ul> |                                    |

|   |  |
|---|--|
| <p>6. The maps mentioned in item 5 should also be submitted, in addition to the hard copy, in a digital format as directed by the Board. The mapped horizons and interpreted faults should also be submitted as horizon files and fault files in using such format. The applicant must be prepared to submit copies of seismic data (2D and 3D) in digital format and velocity information used in the mapping if requested by the Board.</p> |  |
| <p>7. Selected interpreted seismic sections, in dip and strike directions across the geological feature tying all wells on the feature and any adjoining wells critical in defining the limits of the hydrocarbon accumulation. The section should show all horizons and faults used in constructing the maps mentioned in items (5) and (6).</p>   |  |
| <p>8. Synthetic seismograms and/or VSPs used in tying the wells referenced to in item 7 above to the seismic sections.</p>  |  |
| <p>9. Stratigraphic cross-sections, based on wireline logs, through all wells on the feature and any adjoining wells useful in defining the limits of the hydrocarbon accumulation. The sections should be at a vertical scale of 1 cm = 12 m and should show lithostratigraphic and biostratigraphic correlations with respect to the hydrocarbon-bearing intervals.</p>   |  |
| <p>10. Sufficient structural cross-sections through the field in depth to illustrate the nature of the hydrocarbon accumulation (can be diagrammatic).</p>  |  |
| <p>11. A geological description of the hydrocarbon-bearing reservoirs encountered including their stratigraphic correlation and sedimentological model.</p>   |  |
| <p>12. Formation flow test results and analyses including a summary of the production history, in situ flow characteristics determined from pressure transient analysis, a description of the hydrocarbon characteristics resulting from fluid analysis, and a summary of wireline formation flow test pressure data, including a listing of the data and a pressure depth plot.</p>  |  |
| <p>13. Descriptions of core and sidewall core recovered from the well and results of core and special core analyses.</p>  |  |
| <p>14. Petrophysical analyses of wireline logs including a summary of net and gross reservoir thickness, net pay thickness, average porosity and water saturation and cut-off criteria used to derive these estimates. A copy of the processed log should also be provided.</p>   |  |
| <p>15. Estimated volumes of in-place and recoverable hydrocarbons including information respecting the technology, all of which support the potential for sustained production.</p>   |  |
| <p>16. Such other supplementary information as may be required by the Board subsequent to the submission of this Application.</p>   |  |

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the Applicant.

Name:

Title:

**C-NSOPB ATTACHMENT 2**

**APPLICATION  
FOR A  
SIGNIFICANT DISCOVERY DECLARATION/AMENDMENT\***

Pursuant to s. 74 of the C-NSOPRAIA and s. 77 of the C-NSOPRAI(NS)A, \_\_\_\_\_, being an interest holder in \_\_\_\_\_, ("Applicant") hereby submits an application for a declaration/amendment\* of significant discovery as indicated by the \_\_\_\_\_ well ("Well") which the Applicant represents as the first well on the geological feature, more particularly described in the information outlined below, which satisfied the requirements of a significant discovery.

*\* The Applicant should appropriately modify the wording to indicate whether the Application is for a declaration or amendment.*

The Applicant further represents that it has included, or will include pursuant to item 16 as part of its application, the following prescribed information which is true, accurate and complete, and which may be found in the \_\_\_\_\_ copies of the enclosed documentation entitled **Application for a Significant Discovery Declaration Respecting the \_\_\_\_\_ Well, Dated \_\_\_\_\_** ("Application") as indicated below:

| <p align="center"><b>Application for a Significant Discovery Declaration<br/>Respecting the _____ Well</b></p>   | <p align="center"><b>Tab #</b></p> |
|--|------------------------------------|
| <p>1. Identification of the related interests, interest holders, representative(s), and legal description of the lands comprising the proposed significant discovery area ("SDA").</p>   |                                    |
| <p>2. An 8 1/2" x 11" plat(s) indicating the proposed SDA, outline of the hydrocarbon accumulation(s), the location of all wells within the proposed SDA, and the related interests which include the proposed SDA.</p>  |                                    |
| <p>3. A list of the names, title, phone and fax numbers of each representative of the Applicant who may be contacted regarding the Application.</p>  |                                    |
| <p>4. A written summary of the results of the discovery well for which the application is made, and of subsequent delineation wells, or, for an extension, of the results of further drilling including the items below and a description of the geological feature, hydrocarbon accumulation(s) and limits.</p>   |                                    |
| <p>5. Structure maps in time and converted to depth at a minimum scale of 1:50,000 for seismic markers at or near the top of each hydrocarbon-bearing reservoir included in the SDA. If isochron or isopach maps are used in constructing the above, these should also be provided. An explanation of the method of time to depth conversion should be included. Where isochron or isopach maps are used, they should show where applicable:</p> <ul style="list-style-type: none"> <li>(1) fluid contacts as derived from petrophysical and core analysis and/or pressure depth plots;</li> <li>(2) erosional or depositional limited of the reservoir units mapped; and</li> <li>(3) faults that are perceived to be sealing and non-sealing.</li> </ul> |                                    |

|   |  |
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| <p>6. The maps mentioned in item 5 should also be submitted, in addition to the hard copy, in a digital format as directed by the Board. The mapped horizons and interpreted faults should also be submitted as horizon files and fault files in using such format. The applicant must be prepared to submit copies of seismic data (2D and 3D) in digital format and velocity information used in the mapping if requested by the Board.</p> |  |
| <p>7. Selected interpreted seismic sections, in dip and strike directions across the geological feature tying all wells on the feature and any adjoining wells critical in defining the limits of the hydrocarbon accumulation. The section should show all horizons and faults used in constructing the maps mentioned in items (5) and (6).</p>   |  |
| <p>8. Synthetic seismograms and/or VSPs used in tying the wells referenced to in item 7 above to the seismic sections.</p>  |  |
| <p>9. Stratigraphic cross-sections, based on wireline logs, through all wells on the feature and any adjoining wells useful in defining the limits of the hydrocarbon accumulation. The sections should be at a vertical scale of 1 cm = 12 m and should show lithostratigraphic and biostratigraphic correlations with respect to the hydrocarbon-bearing intervals.</p>   |  |
| <p>10. Sufficient structural cross-sections through the field in depth to illustrate the nature of the hydrocarbon accumulation (can be diagrammatic).</p>  |  |
| <p>11. A geological description of the hydrocarbon-bearing reservoirs encountered including their stratigraphic correlation and sedimentological model.</p>   |  |
| <p>12. Formation flow test results and analyses including a summary of the production history, in situ flow characteristics determined from pressure transient analysis, a description of the hydrocarbon characteristics resulting from fluid analysis, and a summary of wireline formation flow test pressure data, including a listing of the data and a pressure depth plot.</p>  |  |
| <p>13. Descriptions of core and sidewall core recovered from the well and results of core and special core analyses.</p>  |  |
| <p>14. Petrophysical analyses of wireline logs including a summary of net and gross reservoir thickness, net pay thickness, average porosity and water saturation and cut-off criteria used to derive these estimates. A copy of the processed log should also be provided.</p>   |  |
| <p>15. Estimated volumes of in-place and recoverable hydrocarbons including information respecting the technology, all of which support the potential for sustained production.</p>   |  |
| <p>16. Such other supplementary information as may be required by the Board subsequent to the submission of this Application.</p>   |  |

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the Applicant.

Name:

Title:



**C-NOPB ATTACHMENT 3**  
**APPLICATION**  
**FOR A**  
**COMMERCIAL DISCOVERY DECLARATION/AMENDMENT\***

Pursuant to s. 78 of the C-NAAIA and s. 77 of the C-NLAAINLA, \_\_\_\_\_, being an interest holder in \_\_\_\_\_, ("Applicant") hereby submits an application for a declaration/amendment\* of commercial discovery which the Applicant represents as satisfying the requirements of a commercial discovery.

*\* The Applicant should appropriately modify the wording to indicate whether the Application is for a declaration or amendment.*

The Applicant further represents that it has included, or will include pursuant to item 12 as part of its application, the following prescribed information which is true, accurate and complete, and which may be found in the 7 copies of the enclosed documentation entitled **Application for a Commercial Discovery Declaration, Dated \_\_\_\_\_** ("Application") as indicated below:

| <b>Application for a Commercial Discovery Declaration</b>  | <b>Tab #</b> |
|--|--------------|
| 1. Identification of the related interests, interest holders, representative(s), and legal description of the lands comprising the proposed commercial discovery area ("CDA").   |              |
| 2. An 8 1/2" x 11" plat(s) indicating the proposed CDA, outline of the hydrocarbon accumulation(s), the location of all wells within the proposed CDA, and the related interests which include the proposed CDA.   |              |
| 3. A list of the names, title, phone and fax numbers of each representative of the Applicant who may be contacted regarding the Application.   |              |
| 4. A description of the geological setting or each hydrocarbon accumulation with the following maps provided:<br><p style="margin-left: 40px;">isopach maps of gross and net pay thickness;<br/> isoporosity map; and<br/> hydrocarbon pore volume maps.</p> |              |
| 5. A description of the petrophysical data and analytical procedures. A tabulation of reservoir parameters derived for each reservoir in each well including gross and net pay average porosity, permeability and water saturation.                          |              |
| 6. A description of the reservoir data for each hydrocarbon accumulation including formation flow test results and analyses, reservoir fluid analyses and results of special core and core analyses.   |              |
| 7. Estimates of the oil and gas in place and the volume of which are recoverable for each hydrocarbon accumulation. Assumption and parameters used should be presented as well as a sensitivity analysis reflecting uncertainty in the data and assumptions. |              |

|   |  |
|---|--|
| 8. A description of the proposed exploitation scheme including the development well requirements and the forecast of oil and/or gas production on an annual basis.  |  |
| 9. An overview of the production facilities which may be used to exploit the hydrocarbon reserves.  |  |
| 10. A summary of the annual capital and operating cost for major component of the development and the assumption used.  |  |
| 11. A discussion of the economic analysis used to conclude that the discovery justifies the investment of capital and effort to bring the discovery to production. Assumption and parameters used should be provided.   |  |
| 12. Such other supplementary information as may be required by the Board subsequent to the submission of this Application. [Note: The Applicant must submit information as described in items 5, 6, 7, 8 of Attachment # 1 to the extent such information has not already been submitted or needs to be updated.] |  |

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the Applicant.

Name:

Title:

**C-NSOPB ATTACHMENT 3**

**APPLICATION  
FOR A  
COMMERCIAL DISCOVERY DECLARATION/AMENDMENT\***

Pursuant to s. 81 of the C-NSOPRAIA and s. 84 of the C-NSOPRAI(NS)A, \_\_\_\_\_, being an interest holder in \_\_\_\_\_, ("Applicant") hereby submits an application for a declaration/amendment\* of commercial discovery which the Applicant represents as satisfying the requirements of a commercial discovery.

*\* The Applicant should appropriately modify the wording to indicate whether the Application is for a declaration or amendment.*

The Applicant further represents that it has included, or will include pursuant to item 12 as part of its application, the following prescribed information which is true, accurate and complete, and which may be found in the 7 copies of the enclosed documentation entitled **Application for a Commercial Discovery Declaration, Dated** \_\_\_\_\_ ("Application") as indicated below:

| <b>Application for a Commercial Discovery Declaration</b>  | <b>Tab #</b> |
|--|--------------|
| 1. Identification of the related interests, interest holders, representative(s), and legal description of the lands comprising the proposed commercial discovery area ("CDA").   |              |
| 2. An 8 1/2" x 11" plat(s) indicating the proposed CDA, outline of the hydrocarbon accumulation(s), the location of all wells within the proposed CDA, and the related interests which include the proposed CDA.   |              |
| 3. A list of the names, title, phone and fax numbers of each representative of the Applicant who may be contacted regarding the Application.   |              |
| 4. A description of the geological setting or each hydrocarbon accumulation with the following maps provided:<br><br>isopach maps of gross and net pay thickness;<br><br>isoporosity map; and<br><br>hydrocarbon pore volume maps.                           |              |
| 5. A description of the petrophysical data and analytical procedures. A tabulation of reservoir parameters derived for each reservoir in each well including gross and net pay average porosity, permeability and water saturation.                          |              |
| 6. A description of the reservoir data for each hydrocarbon accumulation including formation flow test results and analyses, reservoir fluid analyses and results of special core and core analyses.   |              |
| 7. Estimates of the oil and gas in place and the volume of which are recoverable for each hydrocarbon accumulation. Assumption and parameters used should be presented as well as a sensitivity analysis reflecting uncertainty in the data and assumptions. |              |

|   |  |
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| 8. A description of the proposed exploitation scheme including the development well requirements and the forecast of oil and/or gas production on an annual basis.  |  |
| 9. An overview of the production facilities which may be used to exploit the hydrocarbon reserves.  |  |
| 10. A summary of the annual capital and operating cost for major component of the development and the assumption used.  |  |
| 11. A discussion of the economic analysis used to conclude that the discovery justifies the investment of capital and effort to bring the discovery to production. Assumption and parameters used should be provided.   |  |
| 12. Such other supplementary information as may be required by the Board subsequent to the submission of this Application. [Note: The Applicant must submit information as described in items 5, 6, 7, 8 of Attachment # 1 to the extent such information has not already been submitted or needs to be updated.] |  |

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the Applicant.

Name:

Title:

**C-NOPB & C-NSOPB ATTACHMENT 4****LOGISTICAL AND CLERICAL REQUIREMENTS FOR A HEARING****PRE-HEARING STAGE****1. Filing System**

A Special Document file will be set up specifically for the Hearing and contain:

- (a) a copy of the **Notice of Preliminary Technical Review, Notice of Proposed Decision, Proposed Decision Report, Notice of Pre-Hearing Conference, and Notice of Hearing;**
- (b) notes regarding the Pre-hearing Conference;
- (c) a copy of all documentation forming part of the Record (as defined in the **Hearing Rules of Practice and Procedure**) including a master list of its contents which would include the Application, Submission, exhibits, and supplementary documentation arising as a result of the Hearing;
- (d) any relevant correspondence between the Applicant and the Board;
- (e) a copy of the Hearing transcript.

At least five additional copies of the entire Record (para. (c) above), the **Proposed Decision Report** and **Decision Report**, and any report or recommendation by the Oil & Gas Committee should also be retained for future proceedings.

**2. Personnel Requirements**

Once it has been determined that a Hearing will take place, the following functions will be performed by the Board Representatives:

**A. Legal Representative**

- **Pre-Hearing Functions:**
  - (a) the handling and receipt of documentation and communications relating to the Application and Hearing;
  - (b) the sending of notices and other documentation;
  - (c) arranging for a room and retaining a Reporter (ie. transcripts) for the Hearing;

- (d) generally overseeing the application and pre-hearing process, including the Pre-Hearing Conference, with the assistance of the Technical Representatives and the Hearing Clerk;
- (e) advising the Technical Representatives of the legal requirements relevant to the Application and Hearing; and
- (f) consulting with and apprising the CEO regarding all of the above.

**B. Technical Representatives**

- **Pre-Hearing Functions:**

- (a) advising the Legal Representative of the technical requirements relevant to the Application and Hearing; and
- (b) assisting the Legal Representative in preparations for and conducting the Pre-hearing Conference; and
- (c) providing a written report to the CEO following the Preliminary Technical Review.

**C. Hearing Clerk**

- **Pre-Hearing Functions:**

- (a) supporting the Legal Representative in the clerical aspects of the Application and the pre-hearing process;
- (b) filing all documentation in the Special File; and
- (c) distributing materials to the Review Panel and Board Representatives as required.

**HEARING STAGE**

**1. Personnel Requirements**

**A. Legal Representative**

- **Hearing Functions:**

- (a) instructing Hearing Clerk as to the proper set up of the hearing room;
- (b) examining evidentiary matter presented at the Hearing in accordance with the **Rules of Practice and Procedure**; and
- (c) providing advice on matters of law or legal procedure as required.

**B. Technical Representatives****• Hearing Functions:**

- (a) examining evidentiary material presented at the Hearing in accordance with the **Rules of Practice and Procedure**; and
- (b) providing technical evidentiary material or advice as required.

**C. Hearing Clerk****• Hearing Functions:**

- (a) setting up hearing room (ie. seating, A/V arrangements)
- (b) supporting the Review Panel (eg. stationery supplies, copying); and
- (c) performing other clerical and miscellaneous functions as required.

**D. Reporter**

- A properly qualified third party should be retained to perform the following hearing functions:
  - (a) preparation of a written transcript of the proceedings; and
  - (b) proof reading and correcting transcript as required.

**POST HEARING STAGE**

In the course of deliberations and the decision process, confidentiality and Record control will prevail regarding post-hearing logistical and clerical requirements. Access will be limited to designated Board personnel.

**C-NOPB ATTACHMENT 5**

**NOTICE  
OF  
PRELIMINARY TECHNICAL REVIEW**

1. Take notice that a preliminary technical review will take place respecting the [**Application for a Significant Discovery Declaration/Amendment Respecting the \_ Well/Application for a Commercial Discovery Declaration/Amendment**], Dated ("Application") commencing at \_\_\_\_ a.m./p.m. on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at the offices of the Canada-Newfoundland Offshore Petroleum Board ("Board") in St. John's, Newfoundland;
2.
  - a) Please note that this is a meeting and not a hearing, which will be dealt with on a "without prejudice" basis. This review is intended to be an informal discussion and examination of the subject application among the technical representatives of the Board and \_\_\_\_\_ ("Applicant"). The purpose of this review is to openly discuss personal interpretations, issues and opinions respecting the Application and the criteria for its evaluation, which will allow the technical representatives of the Board to provide a written report to the Chief Executive Officer ("CEO") of the Board following such a review, which will state whether or not in their opinion, any substantive issues exist regarding the Application;
  - b) If it is the view of the CEO that substantive issues may exist respecting the Application, a recommendation will be made by the CEO to the Board that a formal hearing take place at which time the Board will hear the Application;
  - c) If it is the view of the CEO that no substantive issues exist respecting the Application, a recommendation will be made by the CEO to the Board that no formal hearing take place and that a [significant/commercial] discovery declaration/amendment be made;
3. The following are the technical representatives of the Board who will participate in the preliminary technical review:

| <b>Name</b> | <b>Title</b> | <b>Phone Number</b> |
|-------------|--------------|---------------------|
|-------------|--------------|---------------------|



- 4. Please acknowledge the Applicant's intention to participate in the above review by completing para. 5 below, signing in the box below and returning or faxing this form to:

Canada-Newfoundland Offshore Petroleum Board  
Fifth Floor, TD Place  
140 Water Street  
St. John's, Newfoundland  
A1C 6H6

Fax # (709) 778-1473

Attention:

- 5. Please indicate in the space provided below, the Applicant's technical representatives who will participate in the preliminary technical review:

| Name | Title | Phone Number |
|------|-------|--------------|
|------|-------|--------------|

Dated at St. John's, Newfoundland, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed:

Name:

Title:

This is to acknowledge receipt of this Notice of Preliminary Technical Review and to confirm that \_\_\_\_\_ will participate accordingly.

Signed:

Name:

Title:

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**C-NSOPB ATTACHMENT 5**

**NOTICE  
OF  
PRELIMINARY TECHNICAL REVIEW**

1. Take notice that a preliminary technical review will take place respecting the [**Application for a Significant Discovery Declaration/Amendment Respecting the \_ Well/Application for a Commercial Discovery Declaration/Amendment**], Dated ("Application") commencing at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, the \_\_\_ day of \_\_\_\_\_, 20\_\_ at the offices of the Canada-Nova Scotia Offshore Petroleum Board ("Board") in Halifax, Nova Scotia;
  
2.
  - a) Please note that this is a meeting and not a hearing, which will be dealt with on a "without prejudice" basis. This review is intended to be an informal discussion and examination of the subject application among the technical representatives of the Board and \_\_\_\_\_ ("Applicant"). The purpose of this review is to openly discuss personal interpretations, issues and opinions respecting the Application and the criteria for its evaluation, which will allow the technical representatives of the Board to provide a written report to the Chief Executive Officer ("CEO") of the Board following such a review, which will state whether or not in their opinion, any substantive issues exist regarding the Application;
  
  - b) If it is the view of the CEO that substantive issues may exist respecting the Application, a recommendation will be made by the CEO to the Board that a formal hearing take place at which time the Board will hear the Application;
  
  - c) If it is the view of the CEO that no substantive issues exist respecting the Application, a recommendation will be made by the CEO to the Board that no formal hearing take place and that a [significant/commercial] discovery declaration/amendment be made;
  
3. The following are the technical representatives of the Board who will participate in the preliminary technical review:

| <b>Name</b> | <b>Title</b> | <b>Phone Number</b> |
|-------------|--------------|---------------------|
|-------------|--------------|---------------------|

- 4. Please acknowledge the Applicant's intention to participate in the above review by completing para. 5 below, signing in the box below and returning or faxing this form to:

Canada-Nova Scotia Offshore Petroleum Board  
 6<sup>th</sup> Floor, TD Centre  
 1791 Barrington Street  
 Halifax, Nova Scotia  
 B3J 3K9

Fax # (902) 422-1799

Attention:

- 5. Please indicate in the space provided below, the Applicant's technical representatives who will participate in the preliminary technical review:

| Name | Title | Phone Number |
|------|-------|--------------|
|------|-------|--------------|

Dated at Halifax, Nova Scotia, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed:

Name:

Title:

This is to acknowledge receipt of this Notice of Preliminary Technical Review and to confirm that \_\_\_\_\_ will participate accordingly.

Signed:

Name:

Title:

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**C-NOPB ATTACHMENT 6**

**NOTICE  
OF  
PROPOSED  
ORDER/DECISION/ACTION**

Pursuant to ss. 124(2) of the *Canada-Newfoundland Atlantic Accord Implementation S.C. 1987, c. 3* ("C-NAAIA") and ss. 119(2) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act R.S.N., 1990, c. C-2* ("C-NLAAINLA"), the Board hereby gives notice of the following order/decision/action:

**1. Description of Proposed Order/Decision/Action**

(This would provide the details of the proposed order etc. together with the related facts, conditions, related interests and reasons where appropriate.)

**2. Persons Directly Affected**

Pursuant to ss. 124(2) of the C-NAAIA and ss. 119(2) of the C-NAAIA, the Board considers the following persons to be directly affected: (This will include identifying the Representative where appropriate.)

**3. Request for a Hearing**

- (a) Pursuant to ss. 124(3) of the C-NAAIA and ss. 119(3) of the C-NLAAINLA, any person directly affected (as listed in para. 2 above) by the proposed order/decision/action may make a written request to the Board **NO LATER THAN** \_\_\_\_\_, for a hearing by the Oil and Gas Committee ("Hearing").

Any request by a Representative (as listed in para. 2 above) for a Hearing, shall be considered to be a request by each of the persons directly affected on whose behalf the Representative is acting.

- (b) Nothing prevents a person directly affected from separately requesting a Hearing, regardless of whether or not his Representative has done so.
- (c) Pursuant to ss. 124(4) of the C-NAAIA and ss. 119(4) of the C-NLAAINLA, only those persons directly affected who have requested a Hearing (or on whose behalf a Hearing has been requested by its Representative), may make representations at the Hearing.

4. **Effective Date of Proposed Order/Decision/Action**

This proposed order/decision/action [is made subject to Ministerial approval pursuant to sections 31 to 40 of the C-NAAIA and C-NLAAINLA respectively, which approval has been granted, and - *this portion will be included only if the order/decision/action is a fundamental decision*] shall take effect pursuant to ss. 124(9) of the C-NAAIA and ss. 119(9) of the C-NLAAINLA.

Chairman  
Canada-Newfoundland Offshore Petroleum Board

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**C-NSOPB ATTACHMENT 6**

**NOTICE  
OF  
PROPOSED  
ORDER/DECISION/ACTION**

Pursuant to ss. 127(2) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* S.C. 1988, c. 28 (“C-NSOPRAIA”) and ss. 126(2) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* S.N.S. 1987, c.3 (“C-NSOPRAI(NS)A”) the Board hereby gives notice of the following order/decision/action:

**1. Description of Proposed Order/Decision/Action**

(This would provide the details of the proposed order etc. together with the related facts, conditions, related interests and reasons where appropriate.)

**2. Persons Directly Affected**

Pursuant to ss. 127(2) of the C-NSOPRAIA and ss. 126(2) of the C-NSOPRAI(NS)A, the Board considers the following persons to be directly affected: (This will include identifying the Representative where appropriate.)

**3. Request for a Hearing**

- (a) Pursuant to ss. 127(3) of the C-NSOPRAIA and ss. 126(3) of the C-NSOPRAI(NS)A, any person directly affected (as listed in para. 2 above) by the proposed order/decision/action may make a written request to the Board **NO LATER THAN** \_\_\_\_\_, for a hearing by the Oil and Gas Committee ("Hearing").

Any request by a Representative (as listed in para. 2 above) for a Hearing, shall be considered to be a request by each of the persons directly affected on whose behalf the Representative is acting.

- (b) Nothing prevents a person directly affected from separately requesting a Hearing, regardless of whether or not his Representative has done so.
- (c) Pursuant to ss. 127(4) of the C-NSOPRAIA and ss. 126(4) of the C-NSOPRAI(NS)A, only those persons directly affected who have requested a Hearing (or on whose behalf a Hearing has been requested by its Representative), may make representations at the Hearing.

4. **Effective Date of Proposed Order/Decision/Action**

This proposed order/decision/action [is made subject to Ministerial approval pursuant to sections 32 to 38 of the C-NSOPRAIA and the C-NSOPRAI(NS)A respectively, which approval has been granted, and - *this portion will be included only if the order/decision/action is a fundamental decision*] shall take effect pursuant to ss. 127(9) of the C-NSOPRAIA and ss. 126(9) of the C-NSOPRAI(NS)A .

Chairman or CEO  
Canada-Nova Scotia Offshore Petroleum Board

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**C-NOPB ATTACHMENT 7**

**NOTICE  
OF  
PRE-HEARING CONFERENCE**

1. Take notice that a Pre-Hearing Conference ("PHC") will take place respecting the [**Application for a Significant Discovery Declaration/Amendment Respecting the Well/Application for a Commercial Discovery Declaration/Amendment**], Dated ("Application"), commencing at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, the \_\_\_ day of \_\_\_, 20\_\_ at the office of the Canada-Newfoundland Offshore Petroleum Board ("Board") in St. John's, Newfoundland. This PHC is in anticipation of a hearing which will take place before the Board regarding the Application;
2. a) Please note that the PHC is not a hearing but is a meeting which will be conducted for the purposes of:
  - (i) understanding the substantive issues including any differences of opinion which may exist between a Board Representative and the Applicant on a particular aspect of the Application. For the purpose of discussion, the Board Representatives have summarized in Attachment A what in their opinion are the substantive issues respecting the Application;
  - (ii) identifying the witnesses/participants who will participate in the hearing;
  - (iii) reviewing the **Rules of Practice and Procedure** regarding the hearing;
  - (iv) confirming the Record including the number, sequence and identification of related exhibits for logistical and evidentiary purposes;
  - (v) discussing the expected duration and date of the hearing;
  - (vi) establishing the sequence of evidentiary material and witnesses that the Applicant and Board Representatives will present at the hearing. This could also allow for any further clarification or explanation of the technical submissions;
  - (vii) providing the Applicant with any evidentiary material which a Board Representative intends to enter as part of the Record; and
  - (viii) identifying procedural issues.
- b) The attendees at the PHC will include only the representatives of the Applicant and the designated technical and legal Board Representatives. No member of the Review Panel for such a hearing will be present;



3. The following are the designated Board representatives who will participate in the PHC:

| <b>Name</b> | <b>Title</b> | <b>Phone Number</b> |
|-------------|--------------|---------------------|
|-------------|--------------|---------------------|

4. Please acknowledge your intention to participate in the above review by completing para. 5 below, signing in the box below, and returning or faxing this form to:

Canada-Newfoundland Offshore Petroleum Board  
 Fifth Floor, TD Place  
 140 Water Street  
 St. John's, Newfoundland  
 A1C 6H6

Attention:

Fax # (709) 778-1473

5. Please indicate in the space provided below, the individuals who will participate in the PHC on your behalf:

| <b>Name</b> | <b>Title</b> | <b>Phone Number</b> |
|-------------|--------------|---------------------|
|-------------|--------------|---------------------|

Dated at St. John's, Newfoundland, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed:

Name:

Title:

This is to acknowledge receipt of the Notice of a Pre-Hearing Conference and to confirm that \_\_\_\_\_ will participate accordingly.

Signed:

Name:

Title:

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**C-NSOPB ATTACHMENT 7****NOTICE  
OF  
PRE-HEARING CONFERENCE**

1. Take notice that a Pre-Hearing Conference ("PHC") will take place respecting the [**Application for a Significant Discovery Declaration/Amendment Respecting the Well/Application for a Commercial Discovery Declaration/Amendment**], Dated ("Application"), commencing at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_, 20\_\_ at the office of the Canada-Nova Scotia Offshore Petroleum Board ("Board") in Halifax, Nova Scotia. This PHC is in anticipation of a hearing which will take place before the Board regarding the Application;
2. a) Please note that the PHC is not a hearing but is a meeting which will be conducted for the purposes of:
  - (i) understanding the substantive issues including any differences of opinion which may exist between a Board Representative and the Applicant on a particular aspect of the Application. For the purpose of discussion, the Board Representatives have summarized in Attachment A what in their opinion are the substantive issues respecting the Application;
  - (ii) identifying the witnesses/participants who will participate in the hearing;
  - (iii) reviewing the **Rules of Practice and Procedure** regarding the hearing;
  - (iv) confirming the Record including the number, sequence and identification of related exhibits for logistical and evidentiary purposes;
  - (v) discussing the expected duration and date of the hearing;
  - (vi) establishing the sequence of evidentiary material and witnesses that the Applicant and Board Representatives will present at the hearing. This could also allow for any further clarification or explanation of the technical submissions;
  - (vii) providing the Applicant with any evidentiary material which a Board Representative intends to enter as part of the Record; and
  - (viii) identifying procedural issues.
- b) The attendees at the PHC will include only the representatives of the Applicant and the designated technical and legal Board Representatives. No member of the Review Panel for such a hearing will be present;

3. The following are the designated Board representatives who will participate in the PHC:

| <b>Name</b> | <b>Title</b> | <b>Phone Number</b> |
|-------------|--------------|---------------------|
|-------------|--------------|---------------------|

4. Please acknowledge your intention to participate in the above review by completing para. 5 below, signing in the box below, and returning or faxing this form to:

Canada-Nova Scotia Offshore Petroleum Board  
 6<sup>th</sup> Floor, TD Centre  
 1791 Barrington Street  
 Halifax, Nova Scotia  
 B3J 3K9

Fax # (902) 422-1799

Attention:

5. Please indicate in the space provided below, the individuals who will participate in the PHC on your behalf:

| <b>Name</b> | <b>Title</b> | <b>Phone Number</b> |
|-------------|--------------|---------------------|
|-------------|--------------|---------------------|

Dated at Halifax, Nova Scotia, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed:

Name:

Title:

|  |
|--|
| <p>This is to acknowledge receipt of the Notice of a Pre-Hearing Conference and to confirm that _____ will participate accordingly.</p> <p>Signed:</p> <p>Name:</p> <p>Title:</p> <p>Dated this ____ day of _____, 20__.</p> |
|--|

**C-NOPB ATTACHMENT 8****NOTICE OF HEARING**

1. Take Notice that a hearing will take place commencing at \_\_\_\_ a.m./p.m. on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at which time the Canada-Newfoundland Offshore Petroleum Board ("Board") will hear the [**Application for a Significant Discovery Declaration/Amendment Respecting the \_\_\_\_\_ Well/Application for a Commercial Discovery Declaration/Amendment**], Dated the \_\_\_\_ day of \_\_\_\_\_, 20 ("Application"), by \_\_\_\_\_ ("the Applicant") on behalf of the affected parties in accordance with the **Rules of Practice and Procedure** established by the Board;
2. The Applicant is required to file with the Board a Submission (as described in the **Rules of Practice and Procedure**), NO LATER THAN \_\_\_\_\_;
3. This Hearing is not a public hearing and may be attended only by representatives of the affected parties;
4. The Review Panel which will hear the Application will consist of the following Board members:
  
5. The purpose of the Hearing is to hear and review the Submission made by the Applicant in order that the Board may determine, based upon the Submission and the Application, whether or not a [significant discovery declaration/commercial discovery declaration/amendment] may be made with respect to the \_\_\_\_\_ well, pursuant to [s.71/s.78] of the *Canada-Newfoundland Atlantic Accord Implementation Act* ("C-NAAIA") and [s.70/s.77] of the *Canada-Newfoundland Atlantic Accord Implementation Newfoundland Act* ("C-NLAAINLA");
6. Following the Hearing, the Board will make a proposed decision pursuant to ss. 124(2) of the *C-NAAIA* and ss. 119(2) of the *C-NLAAINLA* stating whether or not a [significant discovery declaration/amendment or commercial discovery declaration/amendment] will be made respecting the Application. Any such proposed decision by the Board shall take effect pursuant to ss. 124(9) of the *C-NAAIA* and ss. 119(9) of the *C-NLAAINLA*. Should no representation, appearance or submission be made by or on behalf of the Applicant at this Hearing, the Board will still make a decision based upon the Application. The time, dates and place of this Hearing as agreed on between the Board and the Applicant will not be changed unless so advised by the Board in writing;

7. Any affected party wishing information, including a copy of the **Rules of Practice and Procedure** used by the Board, may contact the Board at the following address:

Attention: Manager, Legal and Land  
Canada-Newfoundland Offshore Petroleum Board  
Fifth Floor, TD Place  
140 Water Street  
St. John's, Newfoundland  
A1C 6H6

Telephone # (709) 778-1400  
Fax # (709) 778-1473

8. Please acknowledge the Applicant's intention to participate in this Hearing by signing in the box below and returning or faxing this form to the Board at the above address.

Dated at Halifax, Nova Scotia this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Manager, Legal and Land

This is to acknowledge receipt of this Notice of Hearing and to confirm that \_\_\_\_\_ will participate accordingly.

Signed:

Name:

Title:

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**C-NSOPB ATTACHMENT 8****NOTICE OF HEARING**

1. Take Notice that a hearing will take place commencing at \_\_\_\_ a.m./p.m. on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at which time the Canada-Nova Scotia Offshore Petroleum Board (“Board”) will hear the [**Application for a Significant Discovery Declaration/Amendment Respecting the \_\_\_\_\_ Well/Application for a Commercial Discovery Declaration/Amendment**], Dated the \_\_\_\_ day of \_\_\_\_\_, 20 (“Application”), by \_\_\_\_\_ (“the Applicant”) on behalf of the affected parties in accordance with the **Rules of Practice and Procedure** established by the Board;
2. The Applicant is required to file with the Board a Submission (as described in the **Rules of Practice and Procedure**), NO LATER THAN \_\_\_\_\_;
3. This Hearing is not a public hearing and may be attended only by representatives of the affected parties;
4. The Review Panel which will hear the Application will consist of the following Board members:
  
5. The purpose of the Hearing is to hear and review the Submission made by the Applicant in order that the Board may determine, based upon the Submission and the Application, whether or not a [significant discovery declaration/commercial discovery declaration/amendment] may be made with respect to the \_\_\_\_\_ well, pursuant to [s. 74/s.81] of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* (“C-NSOPRAIA”) and [s. 77/s.84] of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* (“C-NSOPRAI(NS)A”);
6. Following the Hearing, the Board will make a proposed decision pursuant to ss. 127(2) of the C-NSOPRAIA and s. 126(2) of the C-NSOPRAI(NS)A stating whether or not a [significant discovery declaration/amendment or commercial discovery declaration/amendment] will be made respecting the Application. Any such proposed decision by the Board shall take effect pursuant to ss. 127(9) of the C-NSOPRAIA and s. 126(9) of the C-NSOPRAI(NS)A. Should no representation, appearance or submission be made by or on behalf of the Applicant at this Hearing, the Board will still make a decision based upon the Application. The time, dates and place of this Hearing as agreed on between the Board and the Applicant will not be changed unless so advised by the Board in writing;

7. Any affected party wishing information, including a copy of the **Rules of Practice and Procedure** used by the Board, may contact the Board at the following address:

Attention: Manger, Resources & Rights  
Canada-Nova Scotia Offshore Petroleum Board  
6<sup>th</sup> Floor, TD Centre  
1791 Barrington Street  
Halifax, Nova Scotia  
B3J 3K9

Telephone# (902) 422-5588  
Fax # (902) 422-1799

8. Please acknowledge the Applicant's intention to participate in this Hearing by signing in the box below and returning or faxing this form to the Board at the above address.

Dated at Halifax, Nova Scotia this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Manager, Resources & Rights

|  |
|--|
| <p>This is to acknowledge receipt of this Notice of Hearing and to confirm that _____ will participate accordingly.</p> <p>Signed:</p> <p>Name:</p> <p>Title:</p> <p>Dated this ____ day of _____, 20__.</p> |
|--|

**C-NOPB ATTACHMENT 9**

**CANADA - NEWFOUNDLAND OFFSHORE PETROLEUM BOARD**

**HEARING RULES OF PRACTICE AND PROCEDURE  
FOR AN APPLICATION FOR A [SIGNIFICANT DISCOVERY DECLARATION/AMENDMENT  
RESPECTING THE \_\_\_\_\_WELL/COMMERCIAL DISCOVERY  
DECLARATION/AMENDMENT], DATED**

**1. Definitions**

In these Rules:

- (a) "Act" means collectively, the *Canada-Newfoundland Atlantic Accord Implementation Act*, S.C. 1987, c.3, as amended and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, R.S.N. 1990, c-2 as amended;
- (b) "Applicant" means collectively \_\_\_\_\_ ;
- (c) "Application" means the application for a [significant discovery declaration/amendment respecting the \_\_\_\_\_ well/commercial discovery declaration/amendment], dated \_\_\_\_\_ ;
- (d) "Board" means those members of the Canada-Newfoundland Offshore Petroleum Board who will preside over and render a decision on behalf of the Canada-Newfoundland Offshore Petroleum Board respecting the Hearing;
- (e) "designated Board Staff" means a person or persons possessing special knowledge or qualifications, retained or employed by the Board and designated by the Board to assist in matters relating to the application for a [significant discovery declaration/amendment or commercial discovery declaration/amendment];
- (f) "Hearing" means the hearing presided over by the Board for the purpose of determining whether or not the Applicant, with regard to its Application, has complied with the mandatory requirements of the Act respecting significant/commercial discoveries;
- (g) "Record" means all documentation of any kind including the Submission and any supplemental documentation which is filed for the purpose of the Hearing;
- (h) "Submission" means a submission filed by the Applicant pursuant to these rules.

**2. Application of rules**

These Rules apply to the proceedings respecting the Application.



## General Rules of Procedure

### 3. Power to vary supplement rules

The Board may dispense with, vary or supplement any of the provisions of these Rules at any time during a proceeding.

### 4. Rules of evidence

The Board is not bound by the rules of evidence.

### 5. Extend/abridge time periods

The Board may extend or abridge any time period prescribed by these Rules or otherwise prescribed by the Board and this power may be exercised even if the application to extend time is not made out until after the expiration of the relevant time period. In making any such extension or abridgement of time, the Board will make every reasonable effort to ensure that the Applicant is not prejudiced.

### 6. Notice of Hearing

- (1) Unless otherwise directed by the Board, a notice of Hearing shall be personally served upon the Applicant not less than thirty (30) days before the date set for commencement of the Hearing.
- (2) The notice of Hearing shall include:
  - (a) the time, date and place of the hearing and the deadline for the filing of submissions;
  - (b) a statement of the purpose, issues and potential effects of the hearing;
  - (c) the time and place of a pre-hearing conference if applicable;
  - (d) the names and titles of the designated Board Staff;
  - (e) the names of those members of the Board presiding over the Hearing;
  - (f) an address for service, communication and correspondence relating to the application.

### 7. Submissions

A Submission to the Board shall be in writing and shall:

- (a) include a list of documents showing tables of contents where appropriate and identify all documentation forming part of the Record;

- (b) be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as practicable to a separate and distinct thought;
- (c) be signed on behalf of the Applicant;
- (d) state the name of the Applicant, its counsel or agent and the address to which documents and communications relating to the Submission may be sent and upon whom documents may be served;
- (e) include a concise statement of:
  - (i) the statutory basis of the Submission;
  - (ii) the facts relevant to the Submission;
  - (iii) the decision sought by the Applicant;
  - (iv) the reasons why the Applicant considers that the Board should make the decision sought by the Applicant;
  - (v) any procedural or jurisdictional issues which the Applicant intends to raise for the consideration of the Board prior to the commencement or at the outset of the Hearing;
- (f) include a statement by the Applicant that, to the best of its knowledge, the Submission is complete as filed.

## **8. Other information**

At any time the Board may direct the Applicant to provide such further information as the Board considers to be necessary or desirable to complete or supplement the Submission or to enable the Board to obtain as complete an understanding of the facts relevant to the matters before the Board as may be possible in the circumstances. Such further information shall be deemed to be part of the Record.

### **Pre-Hearing Rules**

## **9. Pre-filing requirement**

The Applicant shall file its Submission with the Board, including all documentation that it will rely upon at the Hearing, by the deadline indicated in the notice of Hearing.

- 10.** (1) Where any document is required to be filed with the Board pursuant to these Rules such filing shall be effected by delivering 7 copies of the document during ordinary business hours to the office of the Board to the attention of the Manager, Legal and Land .

- (2) For the purposes of documents filed in accordance with sub-section (1), the date of filing shall be the date of actual receipt of the required number of copies of the document at the office of the Board.

**11. Confidentiality of information**

The Board may, at its discretion, make any order or direction as it may consider necessary or desirable to maintain the confidentiality of information disclosed during the course of the Hearing for such period as the Board may consider to be necessary or desirable.

**12. Pre-Hearing conference**

- (1) The Board may at the time it issues a notice of Hearing or any time thereafter and prior to the Hearing, direct that a pre-hearing conference be held for the purposes of
- (a) identifying the issues;
  - (b) identifying the witnesses/participants;
  - (c) reviewing the rules of procedure;
  - (d) confirming the Record including the number, sequence and identification of related exhibits;
  - (e) establishing the expected duration and date of the Hearing;
  - (f) establishing the sequence of evidentiary material and witnesses that the Applicant and Board Representatives will present at the Hearing;
  - (g) providing the Applicant with a copy of any evidentiary material which a Board representative intends to enter as part of the Record; and
  - (h) identifying procedural issues.
- (2) Any pre-hearing conference directed to be held pursuant to sub-section (1) above may include a representative(s) of the designated Board Staff and/or the Board.

**Hearing Rules**

**13. Presentation of submissions at Hearing**

Unless otherwise directed by the Board, no Submission will be considered at the Hearing unless it is presented by a witness:

- (a) who is called by the Applicant for that purpose; and
- (b) who prepared the Submission, or who participated substantially in its preparation or has special knowledge of it.

**14. Witnesses appearing at the Hearing**

Unless otherwise directed by the Board, a witness appearing at a Hearing shall

- (a) provide a summary of his or her qualifications to give evidence;
- (b) confine his or her testimony to matters set out in the Submission; and
- (c) answer all questions put to him or her by the Board or by designated Board staff in a direct, concise and truthful manner. It is not the intention of the Board to have witnesses sworn.

**15. Board to control hearing procedure**

The Board shall determine all procedural matters.

**16. General procedural rules at hearing**

At the Hearing:

- (a) no direct evidence shall be received unless it is for the establishment of facts alleged in the Submission, or other document produced or disclosed prior to the Hearing;
- (b) the Applicant shall be afforded a reasonable opportunity to examine any evidence presented by the designated Board staff and redirect after the completion of questioning by the designated Board Staff and the Board;
- (c) an opportunity will be provided to the Applicant to give closing arguments based upon the evidence adduced before the Board in the Hearing.

**17. Adjournments**

The Board may, at its discretion, order an adjournment in the proceedings.

**18. Right to counsel**

The Applicant is entitled to be represented by counsel or agent.

**19. Transcript**

A transcript shall be made of the evidence given at the Hearing.

**20. Questions of practice procedure/power to stay**

If it appears to the Board at any time that there is a question of practice or procedure that should be decided before a proceeding is continued, the Board may direct that the question be raised for a determination by the Board and may order that pending the determination of such question the whole or part of the proceeding be stayed.

### **Post-Hearing Rules**

#### **21. Form & effective date of orders, decisions, & directives**

- (1) The Board may make orders, decisions, and directives in any form that it considers appropriate.
- (2) The effective date of any order, decision, or direction of the Board is the date which is specified in the order, decision or direction.

#### **22. Reconvening**

The Board may reconvene the Hearing in respect of any matter before making a decision.

#### **23. Judicial Review**

Any application for judicial review of the Board's decision shall be filed and served within thirty (30) days of receipt by the Applicant of the Board's decision.

**C-NSOPB ATTACHMENT 9**

**CANADA-NOVA SCOTIA OFFSHORE PETROLEUM BOARD**

**HEARING RULES OF PRACTICE AND PROCEDURE  
FOR AN APPLICATION FOR A [SIGNIFICANT DISCOVERY DECLARATION/AMENDMENT  
RESPECTING THE \_\_\_\_\_WELL/COMMERCIAL DISCOVERY  
DECLARATION/AMENDMENT], DATED**

**1. Definitions**

In these Rules:

- (a) "Act" means collectively, the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* S.C. 1988, c. 28, as amended and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* S.N.S. 1987, c.3, as amended;
- (b) "Applicant" means collectively \_\_\_\_\_ ;
- (c) "Application" means the application for a [significant discovery declaration/amendment respecting the \_\_\_\_\_ well/commercial discovery declaration/amendment], dated \_\_\_\_\_ ;
- (d) "Board" means those members of the Canada-Nova Scotia Offshore Petroleum Board who will preside over and render a decision on behalf of the Canada-Nova Scotia Offshore Petroleum Board respecting the Hearing;
- (e) "designated Board Staff" means a person or persons possessing special knowledge or qualifications, retained or employed by the Board and designated by the Board to assist in matters relating to the application for a [significant discovery declaration/amendment or commercial discovery declaration/amendment];
- (f) "Hearing" means the hearing presided over by the Board for the purpose of determining whether or not the Applicant, with regard to its Application, has complied with the mandatory requirements of the Act respecting significant/commercial discoveries;
- (g) "Record" means all documentation of any kind including the Submission and any supplemental documentation which is filed for the purpose of the Hearing;
- (h) "Submission" means a submission filed by the Applicant pursuant to these rules.

**2. Application of rules**

These Rules apply to the proceedings respecting the Application.

## **General Rules of Procedure**

### **3. Power to vary supplement rules**

The Board may dispense with, vary or supplement any of the provisions of these Rules at any time during a proceeding.

### **4. Rules of evidence**

The Board is not bound by the rules of evidence.

### **5. Extend/abridge time periods**

The Board may extend or abridge any time period prescribed by these Rules or otherwise prescribed by the Board and this power may be exercised even if the application to extend time is not made out until after the expiration of the relevant time period. In making any such extension or abridgement of time, the Board will make every reasonable effort to ensure that the Applicant is not prejudiced.

### **6. Notice of Hearing**

- (1) Unless otherwise directed by the Board, a notice of Hearing shall be personally served upon the Applicant not less than thirty (30) days before the date set for commencement of the Hearing.
- (2) The notice of Hearing shall include:
  - (a) the time, date and place of the hearing and the deadline for the filing of submissions;
  - (b) a statement of the purpose, issues and potential effects of the hearing;
  - (c) the time and place of a pre-hearing conference if applicable;
  - (d) the names and titles of the designated Board Staff;
  - (e) the names of those members of the Board presiding over the Hearing;
  - (f) an address for service, communication and correspondence relating to the application.

### **7. Submissions**

A Submission to the Board shall be in writing and shall:

- (a) include a list of documents showing tables of contents where appropriate and identify all documentation forming part of the Record;

- (b) be divided into consecutively numbered paragraphs, each of which shall be confined as nearly as practicable to a separate and distinct thought;
- (c) be signed on behalf of the Applicant;
- (d) state the name of the Applicant, its counsel or agent and the address to which documents and communications relating to the Submission may be sent and upon whom documents may be served;
- (e) include a concise statement of:
  - (i) the statutory basis of the Submission;
  - (ii) the facts relevant to the Submission;
  - (iii) the decision sought by the Applicant;
  - (iv) the reasons why the Applicant considers that the Board should make the decision sought by the Applicant;
  - (v) any procedural or jurisdictional issues which the Applicant intends to raise for the consideration of the Board prior to the commencement or at the outset of the Hearing;
- (f) include a statement by the Applicant that, to the best of its knowledge, the Submission is complete as filed.

## **8. Other information**

At any time the Board may direct the Applicant to provide such further information as the Board considers to be necessary or desirable to complete or supplement the Submission or to enable the Board to obtain as complete an understanding of the facts relevant to the matters before the Board as may be possible in the circumstances. Such further information shall be deemed to be part of the Record.

### **Pre-Hearing Rules**

## **9. Pre-filing requirement**

The Applicant shall file its Submission with the Board, including all documentation that it will rely upon at the Hearing, by the deadline indicated in the notice of Hearing.

- 10.** (1) Where any document is required to be filed with the Board pursuant to these Rules such filing shall be effected by delivering 7 copies of the document during ordinary business hours to the office of the Board to the attention of the Manager, Resources & Rights.



- (2) For the purposes of documents filed in accordance with sub-section (1), the date of filing shall be the date of actual receipt of the required number of copies of the document at the office of the Board.

**11. Confidentiality of information**

The Board may, at its discretion, make any order or direction as it may consider necessary or desirable to maintain the confidentiality of information disclosed during the course of the Hearing for such period as the Board may consider to be necessary or desirable.

**12. Pre-Hearing conference**

- (1) The Board may at the time it issues a notice of Hearing or any time thereafter and prior to the Hearing, direct that a pre-hearing conference be held for the purposes of
- (a) identifying the issues;
  - (b) identifying the witnesses/participants;
  - (c) reviewing the rules of procedure;
  - (d) confirming the Record including the number, sequence and identification of related exhibits;
  - (e) establishing the expected duration and date of the Hearing;
  - (f) establishing the sequence of evidentiary material and witnesses that the Applicant and Board Representatives will present at the Hearing;
  - (g) providing the Applicant with a copy of any evidentiary material which a Board representative intends to enter as part of the Record; and
  - (h) identifying procedural issues.
- (2) Any pre-hearing conference directed to be held pursuant to sub-section (1) above may include a representative(s) of the designated Board Staff and/or the Board.

**Hearing Rules**

**13. Presentation of submissions at Hearing**

Unless otherwise directed by the Board, no Submission will be considered at the Hearing unless it is presented by a witness:

- (a) who is called by the Applicant for that purpose; and
- (b) who prepared the Submission, or who participated substantially in its preparation or has special knowledge of it.

**14. Witnesses appearing at the Hearing**

Unless otherwise directed by the Board, a witness appearing at a Hearing shall

- (a) provide a summary of his or her qualifications to give evidence;
- (b) confine his or her testimony to matters set out in the Submission; and
- (c) answer all questions put to him or her by the Board or by designated Board staff in a direct, concise and truthful manner. It is not the intention of the Board to have witnesses sworn.

**15. Board to control hearing procedure**

The Board shall determine all procedural matters.

**16. General procedural rules at hearing**

At the Hearing:

- (a) no direct evidence shall be received unless it is for the establishment of facts alleged in the Submission, or other document produced or disclosed prior to the Hearing;
- (b) the Applicant shall be afforded a reasonable opportunity to examine any evidence presented by the designated Board staff and redirect after the completion of questioning by the designated Board Staff and the Board;
- (c) an opportunity will be provided to the Applicant to give closing arguments based upon the evidence adduced before the Board in the Hearing.

**17. Adjournments**

The Board may, at its discretion, order an adjournment in the proceedings.

**18. Right to counsel**

The Applicant is entitled to be represented by counsel or agent.

**19. Transcript**

A transcript shall be made of the evidence given at the Hearing.

**20. Questions of practice procedure/power to stay**

If it appears to the Board at any time that there is a question of practice or procedure that should be decided before a proceeding is continued, the Board may direct that the question be raised for a determination by the Board and may order that pending the determination of such question the whole or part of the proceeding be stayed.

### **Post-Hearing Rules**

#### **21. Form & effective date of orders, decisions, & directives**

- (1) The Board may make orders, decisions, and directives in any form that it considers appropriate.
- (2) The effective date of any order, decision, or direction of the Board is the date which is specified in the order, decision or direction.

#### **22. Reconvening**

The Board may reconvene the Hearing in respect of any matter before making a decision.

#### **23. Judicial Review**

Any application for judicial review of the Board's decision shall be filed and served within thirty (30) days of receipt by the Applicant of the Board's decision.

**C-NOPB ATTACHMENT 10**

**SIGNIFICANT/COMMERCIAL DISCOVERY DECLARATION/AMENDMENT\***

**(Name of Significant Discovery Well)**

*Canada-Newfoundland Atlantic Accord Implementation Act  
(S.C. 1987, c. 3)*

*Canada-Newfoundland and Labrador Atlantic Accord Implementation  
Newfoundland and Labrador Act  
(R.S.N., 1990, c. C-2)*

Notice is hereby given that effective the date indicated below and pursuant to sections [71/78] of the *Canada-Newfoundland Atlantic Accord Implementation Act* and sections [70/77] of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, the Board hereby declares that a [significant discovery respecting the \_\_\_\_\_ well/commercial discovery has been made/amended]\* in relation to those portions of the offshore area within the following grid areas:

\* *The Board will modify the wording to indicate whether the declaration relates to a significant or commercial discovery and whether it is an amendment.*

N.E. Grid Coordinates:

Sections:

Dated at St. John's, Newfoundland this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Chairman  
Canada-Newfoundland Offshore Petroleum Board

**C-NSOPB ATTACHMENT 10**

**SIGNIFICANT/COMMERCIAL DISCOVERY DECLARATION/AMENDMENT\***

**(Name of Significant Discovery Well)**

*Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*  
(S.C. 1988, c. 28)

*Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*  
(S.N.S. 1987, c.3)

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Notice is hereby given that effective the date indicated below and pursuant to sections [74/81] of the or the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and sections [77/84] of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* the Board hereby declares that a [significant discovery respecting the \_\_\_\_\_ well/commercial discovery has been made/amended]\* in relation to those portions of the offshore area within the following grid areas:

\* *The Board will modify the wording to indicate whether the declaration relates to a significant or commercial discovery and whether it is an amendment.*

N.E. Grid Coordinates:

Sections:

Dated at Halifax, Nova Scotia this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Chairman or CEO  
Canada-Nova Scotia Offshore Petroleum Board

## C-NOPB ATTACHMENT 11

### RELEVANT PROVISIONS<sup>2</sup>

#### Interpretation

s. 47 Definitions

In this Part,

"commercial discovery" means a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;

"commercial discovery area" means, in relation to a declaration of commercial discovery made pursuant to subsection 78(1) or (2), those portions of the offshore area described in the declaration;

"significant discovery" means a discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production;

"significant discovery area" means, in relation to a declaration of significant discovery made pursuant to subsection 71(1) or (2), those portions of the offshore area described in the declaration.

#### Significant Discoveries

s. 71 Application for declaration of significant discovery

- (1) Subject to section 124, where a significant discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with section 66, the Board shall, on the application of the interest holder of the interest or the share thereof made in the form and manner and containing such information as may be prescribed, make a written declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the significant discovery may extend.

#### Declaration on initiative of Board

- (2) Where a significant discovery has been made on any portion of the offshore area, the Board may, by order subject to section 124, make a declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe the significant discovery may extend.

#### Description of offshore area subject to declaration

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<sup>2</sup> The references provided are for the C-NAAIA the substance of which are identical to those found in the C-NLAAINLA.

- (3) A declaration made pursuant to subsection (1) or (2) shall describe the portions of the offshore area to which the declaration applies.

#### Commercial Discoveries

##### s. 78 Application for declaration of commercial discovery

- (1) Subject to section 124, where a commercial discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with section 66, the Board shall, on the application of the interest holder of the interest or the share, made in the form and manner and containing such information as may be prescribed, make a written declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

##### Declaration on initiative of Board

- (2) Subject to section 124, where a commercial discovery has been made on any portion of the offshore area, the Board may, by order, make a declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery may extend.

##### Application of certain provisions

- (3) Subsections 71(3), (4) and (6) apply, with such modifications as the circumstances require, with respect to a declaration made pursuant to subsection (1) or (2).

#### Disclosure of Information

##### s. 119 Definitions

- (1) In this section,

"delineation well" means a well that is so located in relation to another well penetrating an accumulation of petroleum that there is a reasonable expectation that another portion of that accumulation will be penetrated by the first-mentioned well and that the drilling is necessary in order to determine the commercial value of the accumulation;

"development well" means a well that is so located in relation to another well penetrating an accumulation of petroleum that it is considered to be a well or part of a well drilled for the purpose of production or observation or for the injection or disposal of fluid into or from the accumulation;

"engineering research or feasibility study" includes work undertaken to facilitate the design or to analyze the viability of engineering technology, systems or schemes to be used in the exploration for or the development, production or transportation of petroleum in the offshore area;

"environmental study" means work pertaining to the measurement or statistical evaluation of the physical, chemical and biological elements of the lands, oceans or coastal zones, including winds, waves, tides, currents, precipitation, ice cover and movement, icebergs, pollution effects, flora and fauna both onshore and offshore, human activity and habitation and any related matters;

"experimental project" means work or activity involving the utilization of methods or equipment that are untried or unproven;

"exploratory well" means a well drilled on a geological feature on which a significant discovery has not been made;

"geological work" means work, in the field or laboratory, involving the collection, examination, processing or other analysis of lithological, paleontological or geochemical materials recovered from the seabed or subsoil of any portion of the offshore area and includes the analysis and interpretation of mechanical well logs;

"geophysical work" means work involving the indirect measurement of the physical properties of rocks in order to determine the depth, thickness, structural configuration or history of deposition thereof and includes the processing, analysis and interpretation of material or data obtained from such work;

"geotechnical work" means work, in the field or laboratory, undertaken to determine the physical properties of materials recovered from the seabed or subsoil of any portion of the offshore area;

"well site seabed survey" means a survey pertaining to the nature of the seabed or subsoil of any portion of the offshore area in the area of the proposed drilling site in respect of a well and to the conditions of those portions of the offshore area that may affect the safety or efficiency of drilling operations;

"well termination date" means the date on which a well or test hole has been abandoned, completed or suspended in accordance with any applicable regulations respecting the drilling for petroleum made under Part III.

(2) Privilege

Subject to section 18 and this section, information or documentation provided for the purposes of this Part or Part III or any regulation made under either Part, whether or not such information or documentation is required to be provided under either Part or any regulation made thereunder, is privileged and shall not knowingly be disclosed without the consent in writing of the person who provided it except for the purposes of the administration or enforcement of either Part or for the purposes of legal proceedings relating to such administration or enforcement.

(3) Idem

No person shall be required to produce or give evidence relating to any information or documentation that is privileged under subsection (2) in connection with any legal



proceedings, other than proceedings relating to the administration or enforcement of this Part or Part III.

(4) Registration of documents

For greater certainty, this section does not apply to a document that has been registered under Division VIII.

(5) Information that may be disclosed

Subsection (2) does not apply to the following classes of information or documentation obtained as a result of carrying on a work or activity that is authorized under Part III, namely, information or documentation in respect of

- (a) an exploratory well, where the information or documentation is obtained as a direct result of drilling the well and if two years have passed since the well termination date of that well;
- (b) a delineation well, where the information or documentation is obtained as a direct result of drilling the well and if the later of
  - (i) two years since the well termination date of the relevant exploratory well, and
  - (ii) ninety days since the well termination date of the delineation well,
 have passed;
- (c) a development well, where the information or documentation is obtained as a direct result of drilling the well and if the later of
  - (i) two years since the well termination date of the relevant exploratory well and
  - (ii) sixty days since the well termination date of the development well,
 have passed;
- (d) geological work or geophysical work performed on or in relation to any portion of the offshore area,
  - (i) in the case of a well site seabed survey where the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or
  - (ii) in any other case, after the expiration of five years following the date of completion of the work;
- (e) any engineering research or feasibility study or experimental project, including geotechnical work, carried out on or in relation to any portion of the offshore area,

- (i) where it relates to a well and the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or
  - (ii) in any other case, after the expiration of five years following the date of completion of the research, study or project or after the reversion of that portion of the offshore area to Crown reserve areas, whichever occurs first;
- (f) any contingency plan formulated in respect of emergencies arising as a result of any work or activity authorized under Part III;
  - (g) diving work, weather observation or the status of operational activities or of the development of or production from a pool or field;
  - (g.1) accidents, incidents or petroleum spills, to the extent necessary to permit a person or body to produce and to distribute or publish a report for the administration of this Act in respect of the accident, incident or spill;
  - (h) any study funded from an account established under subsection 76(1) of the *Canada Petroleum Resources Act*, if the study has been completed; and
  - (i) an environmental study, other than a study referred to in paragraph (h),
    - (i) where it relates to a well and the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or
    - (ii) in any other case, if five years have passed since the completion of the study.
- (6) Repealed 1988 c.28 s.260

#### Hearings and Judicial Review

##### s. 124 Definition of "Committee"

- (1) In this section, "Committee" means the Oil and Gas Committee established by Part III.

##### Notice

- (2) The Board shall, not less than thirty days before making any order or decision or taking any action in respect of which it is expressly stated in this Part to be subject to this section, give notice in writing to the persons the Board considers to be directly affected by the proposed order, decision or action.

#### Request for hearing

- (3) Any person receiving a notice under subsection (2) may, in writing, request a hearing within the thirty day period referred to in that subsection and, on receipt of such a request, the Board shall direct the Committee to appoint a time and place for a hearing and give notice thereof to the person who requested the hearing.

#### Hearing

- (4) Any person requesting a hearing under subsection (3) may make representations and introduce witnesses and documents at the hearing.

#### Powers of Committee

- (5) For the purposes of a hearing requested under subsection (3), the Committee has, regarding the attendance, swearing and examination of witnesses and the production and inspection of documents, all such powers, rights and privileges as are vested in a superior court of record.

#### Recommendations of Committee

- (6) On the conclusion of the hearing, the Committee shall submit to the Board its recommendations concerning the proposed order, decision or action of the Board, together with the evidence and other material that was before the Committee.

#### Order of Board

- (7) Before making any order or decision or taking any action in respect of which a hearing has been held, the Board shall consider the recommendations of the Committee.

#### Notification of order and reasons

- (8) Where an order, decision or action referred to in subsection (2) is made or taken, the Board shall notify the person who requested a hearing in respect of the order, decision or action under subsection (3) and, on request by that person, publish or make available to that person the reasons for the order, decision or action.

#### Effective date of order

- (9) An order, decision or action referred to in subsection (2) takes effect as of
  - (a) the day that immediately follows the last day of the thirty day period referred to in that subsection, where no hearing is requested under subsection (3); or
  - (b) the day that the order or decision is made or the action is taken by the Board, where a hearing is requested under subsection (3).

### Judicial review

- (10) Any order, decision or action in respect of which a hearing is held under this section is subject to review and to be set aside by the Trial Division of the Supreme Court of Newfoundland.

## C-NSOPB ATTACHMENT 11

### RELEVANT PROVISIONS<sup>3</sup>

#### Interpretation

s. 49. In this Part,

"commercial discovery" means a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;

"commercial discovery area" means, in relation to a declaration of commercial discovery made pursuant to subsection 81(1) or (2), those portions of the offshore area described in the declaration;

"significant discovery" means a discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production;

"significant discovery area" means, in relation to a declaration of significant discovery made pursuant to subsection 74(1) or (2), those portions of the offshore area described in the declaration.

#### Significant Discoveries

s. 74.

- (1) Subject to section 127, where a significant discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with section 69, the Board shall, on the application of the interest holder of the interest or share made in the form and manner and containing such information as may be prescribed, make a written declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the significant discovery may extend.
- (2) Where a significant discovery has been made on any portion of the offshore area, the Board may, by order subject to section 127, make a declaration of significant discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe the significant discovery may extend.
- (3) A declaration made pursuant to subsection (1) or (2) shall describe the portions of the offshore area to which the declaration applies.
- (4) Subject to subsection (5), where a declaration of significant discovery is made pursuant to subsection (1) or (2) and, based on the results of further drilling that a discovery is not a significant discovery or that the portions of the offshore area to which the significant discovery

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<sup>3</sup> The references provided are for the C-NSOPRAIA the substance of which are identical to those found in the C-NSOPRAI(NS)A.

extends differ from the significant discovery area, the Board may, subject to section 127, and as appropriate in the circumstances,

- (a) amend the declaration of significant discovery by increasing or decreasing the significant discovery area; or
  - (b) revoke the declaration.
- (5) A declaration of significant discovery shall not be amended to decrease the significant discovery area or revoked earlier than
- (a) in the case of a significant discovery area that is subject to a significant discovery licence issued pursuant to subsection 76(1), the date on which the exploration licence referred to in that subsection expires; and
  - (b) in the case of a significant discovery area that is subject to a significant discovery licence issued pursuant to subsection 76(2), three years after the effective date of the significant discovery licence.

#### Commercial Discoveries

s. 81.

- (1) Subject to section 127, where a commercial discovery has been made on any portion of the offshore area that is subject to an interest or a share therein held in accordance with section 69, the Board shall, on the application of the interest holder of the interest or the share made in the form and manner and containing such information as may be prescribed, make a written declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery may extend.
- (2) Subject to section 127, where a commercial discovery has been made on any portion of the offshore area, the Board may, by order, make a declaration of commercial discovery in relation to those portions of the offshore area in respect of which there are reasonable grounds to believe that the commercial discovery be extend.
- (3) Subsections 74(3), (4) and (6) apply with such modifications as the circumstances require, with respect to a declaration made pursuant to subsection (1) or (2).

#### Disclosure of Information

s. 122.

- (1) In this section,

"delineation well" means a well that is so located in relation to another well penetrating an accumulation of petroleum that there is a reasonable expectation that another portion of that accumulation will be penetrated by the first-mentioned well and that the drilling is necessary in order to determine the commercial value of the accumulation;

"development well" means a well that is so located in relation to another well penetrating an accumulation of petroleum that it is considered to be a well or part of a well drilled for the purpose of production or observation or for the injection or disposal of fluid into or from the accumulation;

"engineering research or feasibility study" includes work undertaken to facilitate the design or to analyse the viability of engineering technology, systems or schemes to be used in the exploration for or the development, production or transportation of petroleum in the offshore area;

"environmental study" means work pertaining to the measurement or statistical evaluation of the physical, chemical and biological elements of the lands, oceans or coastal zones, including winds, waves, tides, currents, precipitation, ice cover and movement, icebergs, pollution effects, flora and fauna both onshore and offshore, human activity and habitation and any related matters;

"experimental project" means work or activity involving the utilization of methods or equipment that are untried or unproven;

"exploratory well" means a well drilled on a geological features on which a significant discovery has not been made;

"geological work" means work, in the field or laboratory, involving the collection, examination, processing or other analysis of lithological, paleontological or geochemical materials recovered from the surface or subsurface or the seabed or its subsoil of any portion of the offshore area and includes the analysis and interpretation of mechanical well logs;

"geophysical work" means work involving the indirect measurement of the physical properties of rocks in order to determine the depth, thickness, structural configurations or history of deposition thereof and includes the processing, analysis and interpretation of material or data obtained from such work;

"geotechnical work" means work, in the field or laboratory, undertaken to determine the physical properties of materials recovered from the surface or subsurface or the seabed or its subsoil of any portion of the offshore area;

"well site seabed survey" means a survey pertaining to the nature of the surface or subsurface or the seabed or its subsoil of any portion of the offshore area in the area of the proposed drilling site in respect of a well and the conditions of those portions of the offshore area that may affect the safety or efficiency of drilling operations;

"well termination date" means the date on which a well or test hole has been abandoned, completed or suspended in accordance with any applicable regulations respecting the drilling for petroleum made under Part III.

- (2) Subject to section 19 and this section, information or documentation provided for the purposes of this Part or Part III or any regulation made under either Part, whether or not such information or documentation is required to be provided under either Part or any regulation made thereunder, is privileged and shall not knowingly be disclosed without the consent in writing of the person who

provided it except for the purposes of the administration or enforcement of either Part or the purposes of legal proceedings relating to such administration or enforcement.

- (3) No person shall be required to produce or given evidence relating to any information or documentation that is privileged under subsection (2) in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Part or Part III.
- (4) For greater certainty, this section does not apply to a document that has been registered under Division VIII.
- (5) Subsection (2) does not apply to the following classes of information or documentation obtained as a result of carrying on a work or activity that is authorized under Part III, namely, information or documentation in respect of
  - (a) an exploratory well, where the information or documentation is obtained as a direct result of drilling the well and if two years have passed since the well termination date of that well;
  - (b) a delineation well, where the information or documentation is obtained as a direct result of drilling the well and if the later of
    - (i) two years since the well termination date of the relevant exploratory well, and
    - (ii) ninety days since the well termination date of the delineation well, have passed;
  - (c) a development well, where the information or documentation is obtained as a direct result of drilling the well and if the later of
    - (i) two years since the well termination date of the relevant exploratory well, and
    - (ii) sixty days since the well termination date of the development well, have passed
  - (d) geological work or geophysical work performed on or in relation to any portion of the offshore area,
    - (i) in the case of a well site seabed survey where the well has been drilled, after the expiration of the period referred to in paragraph (a) or that later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or
    - (ii) in any other case, after the expiration of five years following the date of completion of the work;
  - (e) any engineering research or feasibility study or experimental project, including geotechnical work, carried out on or in relation to any portion of the offshore area,



- (i) where it relates to a well and the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (a), (b) or (c) is applicable in respect of that well, or
  - (ii) in any other case, after the expiration of five years following the date of completion of the research, study or project or after the reversions of that portion of the offshore area to Crown reserve areas, whichever occurs first;
- (f) any contingency plan formulation in respect of emergencies arising as a result of any work or activity authorized under Part III;
- (g) any diving work, weather observation or the status of operational activities or of the development of or production from a pool or field;
- (g.1) accidents, incidents or petroleum spills, to the extent necessary to permit a person or body to produce and to distribute or publish a report for the administration of this Act in respect of the accident, incident or spill;
- (h) any study funded from an account established under subsection 76(1) of the *Canada Petroleum Resources Act*, if the study has been completed, and
- (i) an environmental study, other than a study referred to in paragraph (h),
- (j) where it relates to a well and the well has been drilled, after the expiration of the period referred to in paragraph (a) or the later period referred to in subparagraph (b)(i) or (ii) or (c)(i) or (ii), according to whether paragraph (a), (b), or (c) is applicable in respect of that well, or
- i. (iii) in any other case, if five years have passed since the completion of the study.

#### Hearings and Judicial Review

s. 127.

- (1) In this section, "Committee" means the Oil and Gas Committee established pursuant to section 145.
- (2) The Board shall, not less than thirty days before making any order or decision or taking any action in respect of which it is expressly stated in this Part to be subject to this section, give notice in writing to the persons the Board considers to be directly affected by the proposed order, decision or action.
- (3) Any person receiving a notice under subsection (2) may, in writing, request a hearing within the thirty day period referred to in that subsection and, on receipt of such a request, the Board shall direct the Committee to appoint a time and place for a hearing and to give notice thereof to the person who requested the hearing.

- (4) Any person requesting a hearing under subsection (3) may make representations and introduce witnesses and documents at the hearing.
- (5) For the purposes of a hearing requested under subsection (3), the Committee has, regarding the attendance, swearing and examination of witness and the production and inspection of documents, all such powers, rights and privileges as are vested in a superior court of record.
- (6) On the conclusion of the hearing, the Committee shall submit to the Board its recommendations concerning the proposed order, decision or action of the Board, together with the evidence and other material that was before the Committee.
- (7) Before making any order or decision or taking any action in respect of which a hearing has been held, the Board shall consider the recommendations of the Committee.
- (8) Where an order, decision or action referred to in subsection (2) is made or taken, the Board shall notify the person who requested a hearing in respect of the order, decision or action under subsection (3) and, on request by that person, public or make available to that person the reasons for the order, decision or action.
- (9) Subject to subsection (10), an order, decision or action referred to in subsection (2) takes effect as of
  - (a) the day that immediately follows the last day of the thirty day period referred to in that subsection, where no hearing is requested under subsection (3); or
  - (b) the day that the order or decision is made or the action is taken by the Board, where a hearing is requested under subsection (3).
- (10) Where a decision referred to in subsection (2) is a fundamental decision or an order or action referred to in that subsection involves the making of a fundamental decision, the periods referred to in paragraph 33(1)(a) do not commence prior to the day referred to in paragraph (9)(a) or (b), as the case may be, and the order, decision or action takes effect subject to section 33.
- (11) Any order, decision or action in respect of which a hearing is held under this section is subject to review and to be set aside by the Trial Division of the Supreme Court of Nova Scotia in accordance with the practice and procedures established by or pursuant to the Provincial Act.