

SUBMISSION ON BEHALF OF
THE
CANADA – NEWFOUNDLAND AND LABRADOR OFFSHORE
PETROLEUM BOARD

1. The C-NLOPB established the Offshore Helicopter Safety Inquiry to report and make recommendations on matters respecting helicopter passenger safety for workers in the Newfoundland and Labrador Offshore Area.
2. The mandate of the Canada-Newfoundland and Labrador Offshore Petroleum Board is to interpret and apply the provisions of the Atlantic Accord and the Atlantic Accord Implementation Acts (the "Accord Acts") to all activities of Operators in the Newfoundland and Labrador Offshore Area; and, to oversee Operator compliance with the statutory provisions for
 - Worker safety;
 - Environmental protection and safety;
 - Effective management of land tenure;
 - Optimized hydrocarbon recovery and value; and
 - Canada/ Newfoundland & Labrador benefits
3. The legislation does not specifically prioritize these mandates however worker safety is paramount in all Board decisions. This is evident by the powers conferred on the Chief Safety Officer and the specific mandate relating to safety oversight.
4. Prior to approval of any authorization the Board is required to consider the safety of the work in relation to each component and the system as a whole. Section 138.2 states:

138.2 The Board shall, before issuing an authorization for a work or activity referred to in paragraph 138(1)(b), consider the safety of the work or activity by reviewing, in consultation with the Chief Safety Officer, the system as a whole and its components, including its structures, facilities, equipment, operating procedures and personnel.
5. Operators are responsible for the safety of their workforce and the environment in which they operate. This is consistent with and similar to other occupational health and safety regimes in Canada – the internal responsibility systems. The Occupational Health and Safety Act, RSNL 1990 c. O-3 states:

Employers' general duty

4. An employer shall ensure, where it is reasonably practicable, the health, safety and welfare of his or her workers.

The Canada Labour Code, R.S. 1985, c. L-2 states:

General duty of employer

124. Every employer shall ensure that the health and safety at work of every person employed by the employer is protected.

6. Just as the Government of Newfoundland and Labrador and the Government of Canada do not guarantee worker safety, the Board does not guarantee the safety of the offshore work force. Worker safety is the responsibility of the Operators. It is the Operators' duty to ensure the protection and safety of workers in the offshore.
7. The Board's role is to require and verify that the Operators comply with their regulatory obligation for safety.
8. The legislation provides the Chief Safety Officer with the necessary tools to monitor and enforce the safety regimes of the Operators.
9. The Chief Safety Officer has broad powers that can be utilized without the necessity of prior Board approval. These powers ensure that the Chief Safety Officer, or his or her designate safety officer, can act swiftly and independently.
10. Section 189, 193 and 193.1 provide the powers of the Chief Safety Officer:

189. A safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may at any reasonable time

(a) enter any place, including lands, buildings, installations, vessels, vehicles and aircraft, used for any work or activity in respect of which

this Part applies, for the purpose of carrying out inspections, examinations, tests or inquiries or of directing that the person in charge of the place carry them out, and the officer may be accompanied by any other person that the officer believes is necessary to help carry out the inspection, examination, test or inquiry;

(b) take photographs or make drawings of any place or thing referred to in this section;

(c) order that any place or thing referred to in this section not be interfered with for a specified period;

(d) require the production, for inspection or copying, of any books, records, documents, licences or permits required by this Part or the regulations;

(e) take samples or particulars and carry out, or have carried out, any reasonable tests or examinations; and

(f) require the person in charge of the place, or any other person in the place who has knowledge relevant to an inspection, examination, test or inquiry, to furnish information, either orally or in writing, in the form requested.

193. (1) Where a safety officer or the Chief Safety Officer, on reasonable grounds, is of the opinion that continuation of an operation in relation to the exploration or drilling for or the production, conservation, processing or transportation of petroleum in any portion of the offshore area is likely to result in serious bodily injury, the safety officer or Chief Safety Officer, as the case may be, may order that the operation cease or be continued only in accordance with the terms of the order.

193.1 An order made by a safety officer or the Chief Safety Officer prevails over an order made by a conservation officer or the Chief Conservation Officer to the extent of any inconsistency between the orders.

11. The Chief Safety Officer has the ultimate authority conferred on it him by the Act. The Chief Safety Officer's decisions are paramount to a conflicting decision by the Chief Conservation Officer.

12. The Chief Safety Officer can suspend production without the necessity of approval from the Board.
13. The Board has demonstrated that its safety regime is effective; removed from the aspects of production and royalties; and, has the power and authority to carry out its mandated duties.

The Inquiry, Recommendations and Participants

14. The Terms of Reference for this Inquiry indicate that its purpose is to determine what improvements can be made so that the Board can determine that the risks of helicopter transportation of the offshore workers is as low as reasonably practicable. Specifically, the Terms of Reference ask the Commissioner to report on and make recommendation in respect to:
 - Safety plan requirements of the Operators;
 - The Operators role in ensuring their safety plans are maintained by the helicopter contractor;
 - Contractual Search and rescue obligations of the helicopter contractor; and
 - The role of the Board and other regulators in ensuring compliance with legislative requirements in respect of worker safety
15. All of the specific items must be read in reference to the general mandate and therefore must relate to worker safety in the context of helicopter transportation.
16. The Board's legislative authority is limited to the Newfoundland and Labrador Offshore Area and the Operators that it authorizes to work within this area.
17. The Board must be legislatively able to implement the recommendations. This can not be achieved if the recommendations are outside the Board's authority.

18. If recommendations from the Commissioner are outside the Board's authority, or would require changes to the existing legislation or regulations the Board can only pass such recommendations on to both levels of Government as per section 17(2) of the Act. It states:

(2) The Board may make recommendations to both Governments with respect to proposed amendments to this Act, the Provincial Act and any regulations made under those Acts.

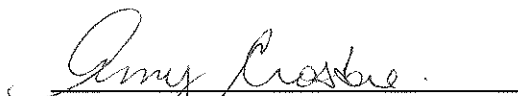
19. The Board can not control the nature or timing of any changes to legislation that both levels of Government may deem necessary.

20. The mandate of the Inquiry has required all participants to provide information not only to the Commissioner but also in a public forum. The Board is grateful to all the parties with standing and presenters for their cooperation with the process.

21. The expert reports and testimony have provided a thorough review of issues relating to worker safety in relation to protection from the cold waters in the North Atlantic, and a useful overview of the regulatory trends and regimes in other jurisdictions.

22. The Board is most appreciative of the thoroughness with which the Commissioner has conducted the Inquiry and expresses its gratitude to the Commissioner, Commission Counsel and to all the Parties with Standing who have participated throughout the process.

All of which is respectfully submitted.


AMY M. CROSBIE
Curtis, Dawe
Solicitors for the C-NLOPB