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Legislative Summary

BILL C-49: AN ACT TO AMEND THE CANADA–NEWFOUNDLAND AND LABRADOR ATLANTIC ACCORD IMPLEMENTATION ACT AND THE CANADA–NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION ACT AND TO MAKE CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

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Sam N. K. Banks

Research and Education

AUTHORSHIP

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ABOUT THIS PUBLICATION

Library of Parliament legislative summaries summarize bills currently before Parliament and provide background information about them in an objective and impartial manner. They are prepared by Research and Education, which carries out research for and provides information and analysis to parliamentarians, Senate and House of Commons committees and parliamentary associations. Legislative summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

For clarity of exposition, the legislative proposals set out in the bill described in this legislative summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the Senate and House of Commons and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent and come into force.

Any substantive changes to this Library of Parliament legislative summary that have been made since the preceding issue are indicated in **bold print**.

Legislative Summary of Bill C-49
(Preliminary version)

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1 BACKGROUND

Bill C-49, An Act to amend the Canada–Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to other Acts, was introduced by the Minister of Natural Resources and received first reading in the House of Commons on 30 May 2023.[1] **It was referred to the House of Commons Standing Committee on Natural Resources, which studied and passed the bill with amendments on 18 April 2024.**

Bill C-49 expands the mandates of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*[2] and the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*[3] (together, the "accord implementation Acts" or "Acts") and sets the legislative framework for offshore renewable energy activities.

The accord implementation Acts implement bilateral agreements between the governments of Canada and Newfoundland and Labrador and Nova Scotia to jointly regulate oil and gas activities in the respective provincial offshore area.

The bill also expands the mandates of the Canada–Newfoundland and Labrador Offshore Petroleum Board (CNLOPB) and the Canada–Nova Scotia Offshore Petroleum Board (CNSOPB) to provide for the regulation of "offshore renewable energy projects," such as offshore wind projects. To reflect this new mandate, the CNLOPB and CNSOPB will be renamed the "Canada–Newfoundland and Labrador Offshore Energy Regulator" and the "Canada–Nova Scotia Offshore Energy Regulator," respectively (collectively, the "Regulators").

1.1 TRANSBOUNDARY POOLS

Bill C-49 establishes a management regime to regulate transboundary petroleum pools that straddle domestic and international boundaries. This would allow for joint exploitation agreements between the regulators and the other appropriate authority having jurisdiction (e.g., a foreign government) to provide for the exploitation of a transboundary pool as though it were a single pool. In 2005, Canada and France signed the Canada–France Agreement on Transboundary Hydrocarbon Fields to provide a management regime for hydrocarbon exploration and exploitation off the coasts of Newfoundland and Labrador and Nova Scotia and the French islands of St. Pierre and Miquelon.[4] This agreement also includes a mechanism for identifying and exploiting transboundary pools. The amendments in Bill C-49 will allow the agreement to be implemented.

1.2 OFFSHORE RENEWABLE ENERGY

The proposed amendments enable the two offshore regulators to regulate offshore renewable energy projects in a manner similar to how they currently regulate offshore petroleum projects. This includes control over impact assessments and any required hearings, licensing, environment, health and safety matters, and decommissioning.

The amendments follow announcements by the governments of Canada, Newfoundland and Labrador[5] and Nova Scotia[6] in 2022 that they intend to expand the mandates of the two provinces' offshore petroleum boards to include the regulation of offshore renewable energy projects.

To implement the changes to the offshore energy regimes set out in Bill C-49, the governments of Newfoundland and Labrador and Nova Scotia will introduce mirroring legislative amendments in their respective legislatures.

The amendment process will complement regional assessments of offshore wind development in Newfoundland and Labrador and Nova Scotia initiated in March 2023 by the governments of Canada and Newfoundland and Labrador[7] and Nova Scotia.[8] This analysis regarding future offshore wind development activities will be regulated under the proposed amended accord implementation Acts. The main purpose of regional assessments is to contribute to the efficiency and effectiveness of future impact assessments of projects that are subject to the *Impact Assessment Act*.[9]

According to information provided by the federal government, the amendments set out in Bill C-49 will help Newfoundland and Labrador and Nova Scotia take advantage of their offshore wind resources and advance its development.[10]

The International Energy Agency (IEA) reported that offshore wind resources supplied 7% of total installed wind capacity as of 2022, with the remaining 93% supplied by onshore wind resources. However, it stated that offshore wind's share is expected to grow significantly within existing and new markets as deploying turbines at sea takes advantage of stronger winds.[11]

In a 2019 news release, the IEA stated that "global offshore wind capacity may increase 15-fold and attract around $1 trillion of cumulative investment by 2040."[12] That said, in 2023, it noted that

> [g]lobal wind capacity additions in 2022 were 20% lower than in 2021, and 32% below the record 2020 growth. The slowdown resulted mostly from project commissioning delays in China related to lockdowns due to the Covid-19 pandemic and lower installations in the United States due to the phase-out of tax incentives. Wind capacity additions are expected to rebound in 2023 and further accelerate in the following years, driven by increased policy support in the United States and the European Union, and policy targets and high economic competitiveness in China.[13]

There is increasing interest in developing offshore wind and hydrogen projects in Atlantic Canada. For example, in April 2022, the Government of Newfoundland and Labrador announced it was lifting a 15-year moratorium on the development of wind power.[14] By October 2022, the province had received 31 submissions for land-based wind energy projects.[15]

In 2023, Nova Scotia released its Offshore Wind Road Map,[16] and plans to offer leases for five gigawatts of offshore wind energy by 2025 to support its emerging green hydrogen industry.[17]

In August 2022, Canada and Germany signed a joint declaration to establish a hydrogen alliance and "create a transatlantic supply chain for hydrogen well before 2030, with first deliveries aiming for 2025."[18]

1.3 *IMPACT ASSESSMENT ACT* AMENDMENTS IN LIGHT OF THE SUPREME COURT OF CANADA REFERENCE DECISION

This bill contains a number of amendments that seek to align the accord implementation Acts with processes set out in the *Impact Assessment Act*. However, in October 2023 the Supreme Court of Canada released a reference opinion stating that numerous sections of the *Impact Assessment Act* were unconstitutional.[19] The Court held that the Act's focus on broad adverse

environmental effects rather than those just within federal jurisdiction infringed on provincial jurisdiction.

In light of the Supreme Court's findings, the federal government announced it would introduce amendments to the *Impact Assessment Act* to align its decision-making powers more closely with federal jurisdiction.[20] To date, those amendments have not been introduced in Parliament.

In order to bridge the discrepancies between the relevant provisions of the *Impact Assessment Act* and Bill C-49, the House of Commons Standing Committee on Natural Resources (the House committee, or committee) made a number of amendments to this bill during its examination at committee stage. Included are amendments allowing for separate coming into force provisions for certain clauses that pertain to some sections of the *Impact Assessment Act*. This will allow for coordination between statutes in Bill C-49 that refer to the *Impact Assessment Act* and any forthcoming amendments to that Act. This means that when the revisions to the *Impact Assessment Act* are introduced, those specified provisions will come into force at a distinct time without delaying the coming into force of all other provisions of Bill C-49.

Other amendments made by the House committee include minor revisions to grammar and language for readability, such as changing the word "criterion" to "criteria" and to add or delete missing or superfluous words, respectively.[21]

2 DESCRIPTION AND ANALYSIS

2.1 OVERVIEW

The bill contains 211 clauses organized into three Parts: Part 1 amends the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*; Part 2 amends the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*; and Part 3 makes consequential and coordinating amendments to other Acts.

Unless otherwise indicated, the amendments in Part 1 are mirrored in Part 2; accordingly, these amendments will be addressed together.

2.2 PARTS 1 AND 2 – AMENDMENTS TO THE *CANADA–NEWFOUNDLAND AND LABRADOR ATLANTIC ACCORD IMPLEMENTATION ACT* AND THE *CANADA–NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION ACT*

The following terminology is used in this legislative summary:

- "accord implementation Acts or Acts" means the *Canada–Newfoundland Atlantic Accord Implementation Act* and the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*;
- "minister or federal minister" means the Minister of Natural Resources;
- "offshore petroleum boards" means the Canada–Newfoundland Offshore Petroleum Board and the Canada–Nova Scotia Offshore Petroleum Board, which are federal/provincial boards established under the accord implementation Acts, as well as under mirror provincial legislation, to jointly manage oil and gas activities in the offshore areas;
- "provincial counterpart to the Minister of Natural Resources" means, in the context of the *Canada–Newfoundland Atlantic Accord Implementation Act*, the Minister of Industry, Energy and Technology (Newfoundland and Labrador) and, in the context of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, the Minister of Natural Resources and Renewables (Nova Scotia); and
- "provincial minister" means, in the context of the *Canada–Newfoundland Atlantic Accord Implementation Act*, the Minister of Industry, Energy and Technology (Newfoundland and Labrador) and, in the context of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, the Minister of Natural Resources and Renewables (Nova Scotia).

To interrupt reading as little as possible with often complex references to the bill's provisions discussed in this legislative summary, citations for the provisions have been placed in endnotes, keyed to the relevant sections or paragraphs in the text.

2.2.1 Titles

The titles of each accord implementation Act are changed to reflect the expanded mandates of the Acts. The *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* becomes the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*. The *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* becomes the *Canada–Nova Scotia Offshore Petroleum Resources Accord*

Implementation and Offshore Renewable Energy Management Act.[22]
[Author's emphasis]

2.2.2 Definitions

A number of definitions are added to each Act, notably "offshore renewable energy project," "offshore renewable energy recommendation" and "Regulator,"[23] the latter of which replaces the term "Board" throughout both accord implementation Acts. Reflecting their changed mandates, the two offshore petroleum boards are renamed the "Canada–Newfoundland and Labrador Offshore Energy Regulator" and the "Canada–Nova Scotia Offshore Energy Regulator."[24]

2.2.2.1 Offshore Renewable Energy Project

An "offshore renewable energy project" is defined as

> any research or assessment conducted any research or assessment conducted in relation to the exploitation or potential exploitation of a renewable resource to produce an energy product, unless it is conducted by or on behalf of a government or educational institution; any exploitation of a renewable resource to produce an energy product; any storage of an energy product produced from a renewable resource, and any transmission of an energy product produced from a renewable resource.[25]

2.2.3 Regulations

Subject to consultations with and the approval of the relevant provincial counterpart, the Governor in Council may make regulations amending the definition "offshore renewable energy project" to add or remove any work or activity related to renewable energy that is carried out in the offshore area.[26]

2.2.4 Non-application of Accords

Bill C-49 states that, for greater certainty, the two Accords do not apply to offshore renewable energy resources.[27]

The accord implementation Acts are updated throughout to extend existing requirements for operations, licencing, authorization, rights of entry, safety and compliance to offshore renewable energy. These provisions broadly parallel the current regime and requirements, tailored to offshore renewable energy where necessary.

Minor amendments are made throughout to increase readability, such as replacing the terms "where" with "if," and "notwithstanding" with "despite."

2.2.5 Consultations with Indigenous Peoples of Canada

A new section provides that the federal or provincial Crown may rely on the Regulator to consult with Indigenous peoples respecting any potential adverse impact of a work or activity in the offshore area on existing Aboriginal and treaty rights. The Regulator may, if appropriate, accommodate any adverse impacts on those rights.[28] This aligns the accord implementation Acts with the processes set out in the *Impact Assessment Act*.

Headings throughout the Acts are added or amended to differentiate "petroleum-related decisions" from "decisions related to offshore renewable energy."[29]

2.2.6 Decisions Related to Offshore Renewable Energy

New provisions regarding decisions related to offshore renewable energy are added. When the Regulator reaches a decision related to offshore renewable energy, it must notify the federal and provincial minister of its recommendation in writing. The ministers must, within 60 days, notify the Regulator of their joint decision to approve, vary, or reject the recommendation; this notification must be published in the *Canada Gazette*.[30]

2.2.7 Transboundary Pool (Benefit Plans)

The Acts are amended to define a "transboundary" pool as one that extends beyond the Regulator's jurisdiction in these Acts.[31] This includes a pool extending into the jurisdiction of a foreign government.

Benefit plans for work or activities to be carried out in transboundary pools that are subject to a joint exploitation agreement cannot be approved unless the Regulator and the appropriate authority have agreed on its content. Disagreements about the contents of the plan may be submitted to an expert in accordance with new provisions set out in Bill C-49.[32]

2.3 PETROLEUM AND OFFSHORE RENEWABLE ENERGY RESOURCES

According to a definition added to Part II of the accord implementation Acts, "Crown reserve area" means, in relation to offshore renewable energy, "portions of the offshore area in respect of which no submerged land licence is in force respecting

a particular renewable energy resource." An offshore renewable energy "interest" means "any submerged land licence." The term "significant discovery" is amended to expand the methods used to demonstrate the existence of an accumulation of hydrocarbons.[33]

2.3.1 Prohibitions – Regulations [Area for Environmental or Wildlife Conservation or Protection]

New sections provide that the Governor in Council may make regulations to prohibit the commencement or continuation of petroleum resource – or renewable energy – activities, or the issuance of interests, in respect of any portion of the offshore area that is located in an area that has been or may be identified as an area for environmental or wildlife conservation or protection. Accordingly, once a portion of the offshore is declared to be an area for environmental or wildlife conservation or protection, no further licence interests are to be issued for the area, and no further petroleum activity or offshore renewable energy activity can be undertaken by interest holders in the area. Provisions are made for notice requirements, negotiations with interest owners and compensation for the surrender or cancellation of their interests. Areas for which an offshore interest has been surrendered or cancelled become Crown reserve areas.[34]

2.3.2 Term of Significant Discovery Licence and Extension of Term

A significant discovery licence is given a statutory term of 25 years. This is new; the current accord implementation Acts do not set a specific term for this licence.[35] Two new provisions are also added. If the interest owner applies to the Regulator for a declaration of commercial discovery, the term of the significant discovery licence is automatically extended until the Regulator decides on that application. The extension of the term of the significant discovery licence remains in place after the Regulator makes a declaration of commercial discovery, but the Regulator may cancel the extension if the interest owner fails to apply for a production licence within a reasonable time.[36]

2.4 DIVISION V – OFFSHORE RENEWABLE ENERGY

New Division V, entitled "Offshore Renewable Energy," is added to the Acts. This Division outlines general rules establishing a land tenure regime for issuing submerged land licences. It essentially replicates the accord implementation Acts' current processes set out in Divisions II and III concerning the "General Rules Relating to Petroleum-Related Interests" and "Exploration," respectively.

2.4.1 Regulators Authority to Issue Licences, Calls for Bids, Contents and Notice Requirements, and Exceptions

New Division V repeats the text of Division II of the Acts, replacing the term "interest" with "submerged land licence" throughout this Division. This new Division addresses the Regulator's authority to issue submerged land licences, requirements for calls for bids for submerged land licences, prescribes the terms, conditions and criteria to be specified in a call for bids, the manner in which bids are to be submitted and the terms, conditions, criteria and manner to be specified in the call, and bid selection and publication requirements.[37]

Consistent with Division II, the Regulator may issue a submerged land licence for any Crown reserve area without making a call for bids in specified circumstances. The Governor in Council may make regulations respecting matters within this new Division.[38]

2.4.2 Conditions

Some provisions in this new Division are unique to requirements for submerged land licences. For example, a new subsection states that, upon the direction of the federal and provincial ministers, the Regulator may issue a submerged land licence for any Crown reserve area without making a call for bids under terms and conditions specified by the ministers.

Those terms and conditions are set out a subsequent subsection. They stipulate that the offshore renewable energy project be restricted to activities including research or demonstrations of technologies, approaches or methods related to the production, transmission or storage of renewable energy, or conducting a site assessment, among others.[39]

As well, there are some differences in certain time periods between petroleum-related interests in Divisions II and III and submerged land licences in new Division V. If the Regulator has not issued a submerged land licence with respect to a particular portion of the offshore area specified in a call for bids within 12 months after the closing date specified in the call for bids, the Regulator must make a new call for bids before issuing a submerged land licence in relation to that portion of the offshore area. This 12-month period is double that in the same provisions in Division II.[40]

Similarly, the requirements for the notice the Regulator must give before issuing or amending a submerged land licence is 120 days; it is 90 days for a petroleum-related interest.[41]

A new section adds principles that apply in this Division. The bill as originally introduced set out two principles. First, that all Canadian corporations and individual Canadians resident in Canada shall have a full and fair opportunity to participate on a competitive basis in an offshore renewable energy project, including in jobs and in the supply of goods and services used in projects. This first principle is similar to an existing provision in the accord implementation Acts under the respective "Benefits Plan" heading.[42]

Second, that importance must be given to enhancing the participation of underrepresented groups in those endeavours. A third principle was added at the House committee stage, stating that "during the submerged land licence issuance process, importance shall be given to the consideration of effects on fishing activities."[43]

2.4.3 Royalties and Revenues

Division VI of the accord implementation Acts address royalties, interest and penalties flowing from offshore energy production and treats offshore energy projects as if they were completed in the province. It is amended to include offshore renewable energy "revenues" to complement the existing royalty scheme for oil and gas production.[44]

2.4.4 Remedies for Unpaid Revenues

A new subsection provides a remedy for unpaid revenues. As long as the amount remains unpaid, the provincial minister may direct the Regulator to refuse to issue a submerged land licence to that person. The Regulator may also refuse to authorize that person to carry out any work or activity on any offshore renewable energy project, or suspend any authorization already given.[45]

2.5 PART III – PETROLEUM AND OFFSHORE RENEWABLE ENERGY OPERATIONS

Part III of the Acts currently address petroleum operations. It sets out provisions concerning the exploration and drilling for and the production, conservation, processing and transportation of petroleum in the offshore area. It also provides for the promotion of safety and the protection of the environment, and the conservation of petroleum resources and joint production arrangements.

This section of the legislative summary discusses amendments that expand this Part to include offshore renewable energy projects and operations within this context. It also discusses additional amendments to this Part that align both petroleum operations and offshore renewable energy operations with the *Impact Assessment Act*.

Amendments added by the House committee allow for separate coming into force of certain clauses that pertain to some sections of the *Impact Assessment Act*. This will allow for coordination between provisions in the accord implementation Acts that refer to the *Impact Assessment Act* and any forthcoming amendments to the assessment Act. When the anticipated revisions to the *Impact Assessment Act* are introduced, those certain provisions will come into force at a distinct time without impeding the coming into force of all other provisions of Bill C-49. As written, these committee amendments provide for future text to be inserted into specific sections of Bill C-49.

To achieve this, the House committee added new section 119(6.1) to the *Newfoundland and Labrador Atlantic Accord Implementation Act* which reads, "Section 119 of the Act is amended by adding the following after subsection (9)." A matching amendment to the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* adds new section 122(6.1), which reads, "Section 122 of the Act is amended by adding the following after subsection (9)." In both accord implementation Acts this new subsection appears after subsection (9) (entitled "Applicant and proposed work or activity") and before subsection (9.1) (entitled "Public notice").

2.5.1 Petroleum and Offshore Renewable Energy Operations

The title of this Part is amended to reflect the inclusion of "offshore renewable energy."[46]

Offshore renewable energy work or activities are prohibited without an authorization obtained from the Regulator.[47]

2.5.2 Offshore Renewable Energy Authorizations

A new section is added to the Acts outlining requirements for offshore renewable energy authorizations.[48] It is similar to the current section concerning authorizations for petroleum-related works or activities, with updated language and new provisions related to the *Impact Assessment Act*.

Authorizations for each offshore renewable energy work or activity proposed to be carried out are subject to any terms and conditions the Regulator may prescribe. These include those related to approvals; deposits of money; liability for loss, damage, costs or expenses related to debris; and the carrying out of safety studies or environmental programs or studies. An authorization may be suspended or revoked for failing to comply with its terms or conditions. These generally correspond to the terms and conditions that may be required for petroleum-related works or activities.[49]

2.5.3 Impact Assessment

A new term or condition – applicable to both petroleum and offshore renewable energy authorizations – is included. An authorization may also be subject to conditions established under the *Impact Assessment Act*, including those established under section 64 of that Act (which addresses conditions concerning adverse effects within federal jurisdiction with which project proponents must comply) or conditions set by regulations made under section 112(1)(a.2) of that Act.[50]

New provisions under the heading "Impact Assessment" replace the current text in the accord implementation Acts relating to "environmental assessment." They also align the Acts with the *Impact Assessment Act*.

2.5.3.1 Definition of Designated Project

The definition "designated project" is added. That term, as defined in section 2 of the *Impact Assessment Act*, applies to a petroleum or offshore renewable energy work or activity for which an authorization under the accord implementation Acts is required.[51] This brings these works and activities into alignment with certain provisions and processes of the *Impact Assessment Act*.

2.5.3.2 Impact Assessment

Where an application for an authorization for a petroleum or offshore renewable energy project is made, the Regulator may not make a determination respecting that application before either the Impact Assessment Agency (the Agency) of Canada decides that an impact assessment is not required for that project (in accordance with subsection 16(1) of the *Impact Assessment Act*), or the Minister of Environment and Climate Change has issued a decision statement under section 65 of that Act.[52]

In light of the decision by the Supreme Court of Canada in October 2023 that parts of the *Impact Assessment Act* are unconstitutional, the federal government introduced an amendment at the committee review stage separating the provision referencing "conditions established under the *Impact Assessment Act* or regulations made under section 112(1)(a.2) of that Act" from other provisions in clauses 62 and 170 relating to offshore renewable energy authorizations.[53]

Similarly, committee amendments create new clauses 62.1 and 62.2. New clause 62.1 reads, "The [*Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*] is amended by adding the following after the heading 'Impact Assessment' after sections 130.01: " New clause 62.2 states, "Section 138.02 of the Act is replaced by the following: " Section 138.02 relates to comments to the Minister of the Environment under the heading Regional

Assessments and Strategic Assessments. These specific amendments allow for a separate coming into force for certain sections under clause 62.[54]

A mirror amendment was added to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, creating new clause 170.1 which reads, "The Act is amended by adding the following after the heading 'Impact Assessment' after section 142.011: " of that Act. Similarly, new clause 170.2 states, "Sections 142.02 and 142.03 of the Act are replaced by the following: " This is to allow for a separate coming into force for certain sections under clause 170.[55]

2.5.3.3 Designating a Work or Activity

The *Impact Assessment Act* authorizes the Minister of Environment and Climate Change to determine (or "designate") that a work or activity requires a federal impact assessment if the carrying out of that project may cause adverse effects within the federal jurisdiction or adverse direct incidental effects, or public concerns related to those effects warrant the designation.[56] If the Minister of Environment and Climate Change considers such a designation for either an offshore petroleum or renewable energy project, the Regulator must provide comments respecting this designation to the minister.

2.5.3.4 Access to Information

The Regulator must provide any specialist or expert information or knowledge it possesses to the Agency, a review panel, "authority"[57] or committee[58] upon request.[59] The Regulator must also**, on the Agency's request made under section 13(2) of the *Impact Assessment Act*,** engage with the project proponent to obtain any information the Agency requires to exercise its powers or perform its duties or functions with respect of the proposed project.[60]

A federal authority must also provide the Regulator with any specialist or expert information or knowledge it possesses that the Regulator may require to determine whether to authorize an offshore petroleum or renewable energy project, approve a development plan or conduct a regional or strategic assessment under the accord implantation Acts.[61]

2.5.3.5 Comments

In order to assist the Agency in determining whether an impact assessment is required, the Regulator must provide the Agency with any comments it receives from the public in the planning phase of the impact assessment process in response to a notice posted under section 15(3) of the *Impact Assessment Act*.[62]

2.5.3.6 Comments for Agency – Time Limits

Similarly, if the Agency decides that an impact assessment is required, the Regulator must provide the Agency with public comments regarding the time limits within which the impact assessment report must be submitted to the Minister of the Environment and Climate Change and within which any recommendations must be posted on the Agency's website. The Regulator must also provide the Agency with comments regarding the information and studies the Agency considers necessary and requires from the project proponent for the conduct of the impact assessment and the preparation of the impact assessment report.[63]

2.5.3.7 Consultation with Ministers

Before providing public comments to the Agency in response to the notice posted under section 15(3) of the *Impact Assessment Act* and the time limits in this part of the accord implementation Acts, the Regulator may consult with the federal minister and the provincial minister; if the Regulator chooses to do so, the Regulator must consult with both ministers.[64]

2.5.4 Regional Assessments and Strategic Assessments

New provisions empower the Regulator to conduct regional[65] and strategic[66] assessments for work or activities under Part III (Petroleum and Offshore Renewable Energy Operations) of the accord implementation Acts.

The Regulator may conduct a regional assessment of the effects of any existing or future work or activity for which an authorization under this part of the accord implementation Acts is required.[67] Similarly, the Regulator is also authorized to conduct a strategic assessment of any proposed or existing policy, plan or program respecting the offshore area, or of any issue that is relevant to any existing or future work or activity that requires an authorization under this part of the Acts.[68]

2.5.4.1 Agreement Between Ministers

The federal minister and provincial counterpart may enter into an agreement with certain others in order to facilitate the regional or strategic assessment, including specifying the time limits and terms of reference for these assessments.[69] Provisions are made for public comments concerning the terms of reference or appointments to a committee established to conduct regional or strategic assessments.[70]

2.5.5 Participant Funding Program

The Acts are amended to authorize the Regulator to establish a participant funding program to facilitate the participation of the public and any Indigenous peoples of Canada in consultations concerning any matter respecting the offshore area.[71]

2.6 TRANSBOUNDARY POOL (DEVELOPMENT PLANS)

The development plan approval process is amended to establish a management regime for the development of transboundary pools that are subject to a joint exploitation agreement.

2.6.1 Approval Subject to Agreement

Development plans for work or activities to be carried out in transboundary pools that are subject to a joint exploration agreement cannot be approved or amended unless the Regulator and the appropriate authority have agreed on its content. Part I of the development plan is subject to specified conditions. If the transboundary pool extends into the jurisdiction of a foreign government, the approval of Part I is subject to the consent of the federal minister in consultation with the provincial minister.[72]

2.6.2 Disagreement

Where there is a disagreement about the contents of the development plan submitted for approval or its requirements, the Regulator or appropriate authority may refer the matter to an expert in accordance with new provisions set out in this bill. In the case of a transboundary pool extending into the jurisdiction of a foreign government, the federal minister, upon consultation with the Minister of Foreign Affairs and the provincial minister, may refer the matter to an expert.[73]

2.6.3 Expert's Decision

The expert's decision is deemed to be approval of the plan by the Regulator and approval of Part I of that plan by the federal minister and the provincial minister or, in the case of a transboundary pool extending into the jurisdiction of a foreign government, by only the federal minister.[74]

2.7 REGULATION OF OPERATIONS – PETROLEUM

The Governor in Council's authority to make regulations concerning petroleum operations is amended. Currently the Governor in Council may authorize the Regulator to (among other things) make any necessary orders, exercise powers and

perform duties for the removal of petroleum from the offshore area. This particular subparagraph is expanded to include orders, powers and duties in relation to the management of access by third parties to existing offshore infrastructure for the purpose of storing, processing and transporting petroleum and in relation to the amounts that may be charged for that access.[75]

2.8 PETROLEUM PRODUCTION ARRANGEMENTS

Several new definitions are added to Division II of Part III of the accord implementation Acts. This Division addresses petroleum production arrangements. The new definitions relate to production arrangements in transboundary pools. They include:

- Before determining whether a transboundary pool exists, the "appropriate authority" is the authority that has jurisdiction adjoining the portion of the perimeter where the drilling took place or where a pool exists, and into which there is reason to believe that, based on the data obtained from any drilling, the pool extends. Upon determination that a transboundary pool exists, the "appropriate authority" is the authority responsible for the jurisdiction into which the transboundary pool in question extends.
- "Authority" means the Government of Canada, a government of a province, a foreign government or any of their agencies or a federal–provincial regulatory agency that has administrative responsibility for the exploration and exploitation of petroleum in the area adjoining the perimeter.
- "Perimeter," in relation to a pool, means the portion of the offshore area that is within 10 nautical miles of the limit of that offshore area.
- "Transboundary" means extending beyond the Regulator's jurisdiction under the Acts.[76]

2.8.1 Transboundary Pools

A new section entitled "Transboundary Pools" is added to the Acts.

2.8.1.1 Determination and Delineation

2.8.1.1.1 Information

If an exploratory well is drilled in the perimeter, the Regulator must provide the appropriate authority with any information in its possession and, on request, with any additional information in its possession that is relevant to the determination of whether a pool is transboundary and its delineation.[77]

2.8.1.1.2 Notice – Pool

If data obtained from any drilling in the perimeter provides sufficient information for the Regulator to determine whether a pool exists, the Regulator must notify the appropriate authority as soon as feasible of its determination. If the Regulator determines that a pool exists, the Regulator must also specify in the notice whether or not there is, in its opinion, reason to believe that the pool is transboundary. Prior to notifying the appropriate authority, the Regulator must provide the federal minister and the provincial minister with the reasons for its determination and opinion, if any. The notice must be given no later than one year after the Regulator receives the data from three drillings of the same geological feature in the perimeter.[78]

2.8.1.1.3 Information Received by Regulator

Within 90 days of the Regulator's receipt of a notice from an authority indicating the authority's determination as to whether a pool exists in an area adjoining the perimeter and, if applicable, whether there is reason to believe that the pool extends into the perimeter, the Regulator must inform the authority of its agreement with the content of the notice, or of its disagreement, along with reasons for disagreeing.[79]

2.8.1.1.4 Determination and Delineation

If, after receiving a notice described above, the Regulator and the authority agree that a pool exists, they must jointly determine whether the pool is transboundary and, if so, they must jointly delineate its boundaries. If they disagree about whether a pool exists or is transboundary or about a pool's delineation, they may refer the matter to an expert within 180 days of issuing the notice.[80]

2.8.1.1.5 Disagreement [and Referral to an Expert]

The amendments made by Bill C-49 to the accord implementation Acts include four circumstances in which a matter may be referred to an expert for resolution. These are disagreements about:

- the contents of benefits plans;[81]
- the content of development plans;[82]
- whether a pool is transboundary or its delineation;[83] and
- the particulars of a joint exploitation agreement.[84]

2.8.1.1.6 Referral to Expert

A party that intends to refer a matter to an expert must notify the other party of its intention, and within 30 days, the parties must agree on the appointment of an expert to decide the matter. However, if the parties cannot agree on the appointment of a single expert, within another 30 days the parties must each appoint one expert to a panel, and those two experts shall, in turn, jointly appoint an additional expert as chairperson. However, if the two experts cannot jointly agree on the appointment of a chairperson within 30 days of the last appointment, then, within another 30 days, the Chief Justice of the Federal Court appoints the chairperson, and the expert panel may begin its review of the matter.[85]

An expert must be impartial and independent and have knowledge or experience relative to the subject of disagreement. Decisions of an expert panel are arrived at by majority vote. The expert's or expert panel's decision must be made within 270 days of the expert or panel becoming responsible for resolving the matter. Subject to judicial review, the decision is final and binding. An expert must keep records of hearings and proceedings, which are deposited with the Regulator when the expert's relevant activities have ceased.[86]

2.8.1.1.7 Expert – International Treaty

In the case of a transboundary pool extending into the jurisdiction of a foreign government, the appointment of an expert and decisions made by them are to be made in accordance with any applicable international treaty respecting the exploration and exploitation of transboundary pools, as amended from time to time. Canada and the foreign government shall share equally both the expert's fees and costs and the costs of the expert's proceedings. With respect to the portion of those costs and fees to be paid by Canada, the governments of Canada and of the province are to share the expert's fees and costs equally and, unless otherwise agreed, the costs of the proceedings are also to be shared equally.[87]

2.8.1.2 Agreements Relating to Joint Exploitation

2.8.1.2.1 Joint Exploitation Agreement

The Regulator and the appropriate authority may enter into a joint exploitation agreement providing for the development of a transboundary pool as a single pool. The agreement must include any matters provided for by regulations.

2.8.1.2.2 Advice to Ministers

In the case of a transboundary pool extending into the jurisdiction of a foreign government, the Regulator must provide advice regarding the exploitation of that transboundary pool to the federal minister and the provincial minister, who may enter into a joint exploitation agreement with the appropriate authority.

2.8.1.2.3 Single Pool

If a joint exploitation agreement is signed, the transboundary pool may only be developed as a single pool. Development of that pool is subject to both a unit agreement and a unit operating agreement being entered into and subsequently approved. Information about a unit agreement and approval is discussed below. Where there is any inconsistency, the joint exploitation agreement prevails over the unit agreement and the unit operating agreement.[88]

2.8.1.2.4 Intention to Start Production

If an "interest owner"[89] advises the Regulator that it intends to start production from a transboundary pool, the Regulator must notify the appropriate authority as soon as feasible of the interest owner's intention, after first notifying the federal minister and provincial minister of that intention. If the appropriate authority or the Regulator, or in the case of a transboundary pool extending into the jurisdiction of a foreign government, the federal minister (in consultation with the Minister of Foreign Affairs and the provincial minister) have unsuccessfully attempted to enter into a joint exploitation agreement – within 180 days of the Regulator's notifying the appropriate authority of the interest owner's intention – they may refer the matter to an expert to determine the particulars of the agreement.[90]

2.8.1.2.5 Unit Agreement

The "royalty owners" and the "working interest owners"[91] of a transboundary pool may enter into a unit agreement and once jointly approved **by the Regulator and the appropriate authority**, must operate their interests in accordance with the unit agreement, including any amendment to it.[92]

2.8.1.2.6 Approval of the Unit Agreement and Unit Operating Agreement

The Regulator and the appropriate authority may jointly approve the unit agreement if all the royalty owners and all the working interest owners in the pool are parties to it, and they may jointly approve the unit operating agreement if all the working interest owners in the pool are parties to it. Both agreements are to be approved in this way before the Regulator issues an authorization to carry on a work or an activity connected with the development of a transboundary pool as a single pool.[93]

2.8.1.2.7 Order to Enter into Agreements

When a joint exploitation agreement concerning a transboundary pool is entered into, the Regulator shall order the working interest owners in the portion of the pool that is in its jurisdiction to enter into a unit agreement and a unit operating agreement with all other working interest owners in the pool if they have not already done so.[94]

2.8.1.2.8 Application for a Unitization Order

One or more working interest owners who are parties to a unit agreement and a unit operating agreement, and own in total 65% or more of the working interests in a transboundary pool may apply to the Regulator and the appropriate authority for a unitization order. The unit operator (or proposed unit operator) may make the application on behalf of the working interest owners.[95] The required contents of the application are set out in specified sections of the accord implementation Acts.[96]

2.8.1.2.9 Appointment of Expert

The Regulator and the appropriate authority must appoint an expert, as described in the section entitled "Disagreement (and Referral to an Expert)" in this legislative summary, to decide the application.[97] If the transboundary pool extends into the jurisdiction of a foreign government, the federal minister, after consultation with the provincial minister, must agree with the appropriate authority on the appointment of an expert in accordance with a process set out in specified sections of the Acts.[98] Those sections state that the appointment of an expert and the making of decisions by them are to be made in accordance with any applicable international treaty respecting the exploration exploitation of transboundary pools, as amended from time to time.[99]

2.8.1.2.10 Hearing and Process for Deciding a Unitization Order

An expert responsible for determining an application for a unitization order must hold a hearing at which all interested persons are given an opportunity to be heard. At the end of the hearing, the expert must request that the Regulator and appropriate authority order that the unit agreement be binding on and enforceable against all the royalty owners and working interest owners – and that the unit operating agreement is binding on and enforceable against all working interest owners – who have an interest in the unit area.

The expert must request that the Regulator and the appropriate authority include in the order any variations to the unit agreement or the unit operating agreement that the expert determines are necessary to allow for the more efficient or more economical

production of petroleum from the unitized zone. However, the expert may make no such request that the order include variations if the expert finds that,

- on the day on which the hearing begins:
  - the unit agreement and unit operating agreement have been executed by one or more working interest owners who own in total 65% or more of the total working interests in the unit area,
  - the unit agreement has been executed by one or more royalty owners who own 65% or more of the total royalty interests in the unit area; and
- the unitization order applied for would allow for the more efficient or more economical production of petroleum from the unitized zone.[100]

Where the transboundary pool extends into the jurisdiction of a foreign government, the interested parties in the hearing are representatives of each country in question. On the conclusion of the hearing, the expert shall request that the interested persons ensure that the Regulator and the appropriate authority make the order that the unit agreement and unitization orders are binding and enforceable.[101]

Upon receiving such a request from an expert, the Regulator must issue a unitization order. The order only becomes effective on the date set out in the order, which must be at least 30 days after the order is made, if the appropriate authority has issued an equivalent order.[102]

2.8.1.2.11 Effect of Unitization Order

The unit agreement and unit operating agreement have the effect given to them by the unitization order. The issuance of unitization orders from both the Regulator and the appropriate authority is deemed to be their joint approval of the unit agreement and unit operating agreement. A unitization order is not invalid by reason only of the absence of, or irregularities in giving, notice to any owner of the application for an order, or any irregularities in the proceedings leading to the order. While the order is in effect, all persons carrying on drilling or petroleum producing activities in the unit area must abide by the provisions of the unit agreement and unit operating agreement.[103]

2.8.1.2.12 Order Revoked

The Regulator must immediately revoke a unitization order that varies a unit agreement or a unit operating agreement if, before the effective date of the order,

- the applicant withdraws the application; or

- the following people sign statements objecting to the order and file the statements with the Regulator:
  - in the case of a unit agreement:
    - working interest owner(s) who own in total more than 25% of the total working interests in the unit area and are part of the group that owns 65% or more of the total working interests in the unit area and that executed the unit agreement and unit operating agreement, and
    - royalty owner(s) who own in total more than 25% of the total royalty interests in the unit area and are part of the group that owns 65% or more of the total royalty interests and that executed the unit agreement, or
    - in the case of a unit operating agreement: working interest owner(s) who own in total more than 25% of the total working interests in the unit area and are part of the group that owns 65% or more of the total working interests and that executed the unit agreement and the unit operating agreement.[104]

2.8.1.2.13 Amendment of a Unitization Order

A working interest owner may apply to both the Regulator and the appropriate authority to have a unitization order amended. The Regulator and the appropriate authority must appoint an expert, as described in the section entitled "Disagreement (and Referral to an Expert)" of this legislative summary, to determine the application. In the case of a transboundary pool that extends into the jurisdiction of a foreign government, the federal minister, upon consultation with the provincial minister, must agree with the appropriate authority on the appointment of an expert in accordance with the process set out in specified subsections of the accord implementation Acts.[105]

The expert must hold a hearing at which all interested persons are given an opportunity to be heard. After the hearing, the expert may request that the Regulator and the appropriate authority order the amendment of the unitization order either as proposed by the applicant, or as varied by the expert to allow for the more efficient or more economical production of petroleum from the unitized zone.

However, if the expert finds that, on the day on which the hearing begins, one or more working interest owners who own in total 65% or more of the total working interests, and one or more royalty interest owners who own in total 65% or more of the total royalty interests in the unit area have consented to the proposed amendment, the expert may end the hearing and request that the Regulator and appropriate authority each amend their unitization orders in accordance with the amendment proposed. No unitization order amendment may alter the ratios between the tract participations[106] of those tracts that were qualified for inclusion in the unit area before the commencement of the hearing.[107]

2.8.1.2.14 Amendment of a Unitization Order – Transboundary Pools

Where the transboundary pool extends into the jurisdiction of a foreign government, the interested parties in the hearing to amend the unitization order are representatives of each country in question and, on the conclusion of the hearing, the expert shall request that the interested persons ensure that the Regulator and the appropriate authority amend the unitization order as provided for by this section.[108]

2.9 DIVISION II.1 – REGULATION OF OPERATIONS – OFFSHORE RENEWABLE ENERGY

New Division II.1 is created in Part III of the accord implementation Acts, adding new sections on offshore renewable energy operations. The measures added here broadly replicate similar provisions in Division I of Part III in the current Acts relating to petroleum operations. These measures address the prohibition of debris, emergency action, management or work related to debris, liability for debris, recovery of loss or damage, claims for loss, financial resources, inquiries for injury or death caused by debris or accident, and regulations.

2.9.1 Debris

In this Division, "debris" is defined to include any facility or structure put in place in the course of any work or activity for which an authorization under Part III of the Acts is required and that has been abandoned without authorization or has broken away or been jettisoned.

"Actual loss or damage" is defined as including loss of income, including future income, and, with respect to any Indigenous peoples of Canada, loss of hunting, fishing and gathering opportunities. It does not include loss of income recoverable under section 42(3) of the *Fisheries Act*.[109]

2.9.1.1 Debris Prohibited and Duty to Take Reasonable Measures

Debris is prohibited in the offshore area. Any person carrying on work or activity that requires an authorization under Part III of the Acts must report debris to the Chief Conservation Officer and must take all reasonable measures to reduce or mitigate any damage or danger from the debris. Where the Chief Conservation Officer is satisfied on reasonable grounds that these measures will not be taken, the Chief Conservation Officer may take any immediate action necessary to prevent further debris or reduce or mitigate any danger from it, or direct a person to take those actions.[110]

The Chief Conservation Officer may authorize and direct any person whose services are necessary to enter the area where the debris has been left and take over the management and control of any work or activity being carried on in that area. That person shall take all reasonable measures to prevent further debris or reduce or mitigate any danger from it. Any costs incurred in this regard shall be borne by the person who obtained an authorization for offshore renewable energy work or activity from which the debris originated. No person required, directed or authorized to act under this section is personally liable for any act or omission in complying with this section unless they did not act reasonably in the circumstances.[111]

2.9.1.2 Recovery of Loss, Damage, Costs or Expenses

The section provides for the recovery of loss, damage, costs or expenses for:

- actual loss or damage incurred by any person as a result of debris or any action or measure taken in relation to debris;
- the costs and expenses reasonably incurred by the federal or provincial government in taking any action or measure related to debris; and
- all loss of non-use value[112] relating to a public resource that is affected by debris or as a result of any action or measure taken in relation to it.[113]

All persons to whose fault or negligence the debris is attributable or who are by law responsible for others to whose fault or negligence the debris is attributable are jointly and severally liable, to the extent determined according to the degree of fault or negligence proved against them, for that loss, actual loss or damage, and for those costs and expenses.

The person who is required to obtain an authorization for a work or an activity from which debris originated is liable, without proof of fault or negligence, for those costs and expenses, up to the applicable limit established under this section, which is $1 billion.

The person who carried out a work or activity for which an authorization was required in a facility that is now an abandoned facility from which the debris originated is liable, without proof of fault or negligence, for that loss, actual loss or damage, and for those costs and expenses, up to the applicable limit of liability established under this section, which is $1 billion.[114]

If debris is the result of a contractor's fault or negligence, the person who is required to obtain an authorization to carry out the relevant work or activity and who hired the contractor is jointly and severally liable with the contractor for any actual loss or damage, costs and expenses and loss of non-use value relating to a public resource that is affected by debris or as a result of any action or measure taken in relation to it.[115]

2.9.1.3 Limit of Liability – Lesser Amount

While this section states that the limit of liability without proof of fault or negligence is $1 billion, the federal minister may, by order, on the recommendation of the Regulator and with the approval of the provincial minister, establish a liability limit that is less than $1 billion for persons carrying out a work or activity relating to offshore renewable energy projects that is specified in the order or of persons who carried out that work or activity in a facility that is now an abandoned facility.

In the absence of regulations, the Regulator may establish a limit of liability that is less than $1 billion for persons who carried out a work or activity for which an authorization was required in a facility that is now an abandoned facility.

The Governor in Council is given the power to increase or decrease the liability limits by regulation, as well as limit the amount of time a person may be held liable.[116]

2.9.1.4 Liability Under Another Law

If a person is liable both under the accord implementation Acts and under any other Act, without proof of fault or negligence, for the same occurrence, the person is liable up to the greater of the two liability limits set out in the Acts. However, if liability under another Act is unlimited, then the liability limits established under the accord implementation Acts do not apply.[117]

Only the federal government or a provincial government may sue to recover a loss of non-use value.

2.9.1.5 Claims

Claims for amounts for the losses, damages and costs described in this section rank in the following order:

- in favour of persons incurring actual loss or damage;
- to meet any costs and expenses; and
- to recover a loss of non-use value.[118]

2.9.1.6 Limitation Period

A claim under this section may be brought within three years of the day the loss, damage, cost or expense occurred, but in no case after the sixth anniversary of the day on which the facility, equipment or system in question was abandoned or the material in question broke away or was jettisoned or displaced.[119]

2.9.1.7 Financial Resources

An applicant for an authorization to carry out any other type of work or activity must provide proof that it has the financial resources necessary to pay an amount that the Regulator determines. In determining the amount that an applicant must prove it is able to pay, the Regulator is not required to consider any potential loss of non-use value of a public resource that could be affected as a result of debris.[120]

An applicant for an authorization is required to provide proof of financial responsibility in the form of a letter of credit, a guarantee or indemnity bond or in any other form satisfactory to the Regulator. The holder of an authorization must ensure that its proof of financial resources, as well as its proof of financial responsibility, remain in force for the duration of the relevant work or activity.[121]

2.9.1.8 Payment of Claims

The Regulator may require that a portion of the funds available under the proof of financial responsibility requirements be paid out in respect of any claim which proceedings may be instituted for recovery of loss, damage, costs or expenses, whether or not those proceedings have been instituted. Payments shall be made in the manner required by the Regulator, and that amount will be deducted from any award for loss, damage, cost or expenses.[122]

2.9.1.9 Review Committee

A committee that consists of members appointed by each government and by representatives of the offshore renewable energy industry and of the fisheries industry is established to review and monitor the application of the recovery of loss, damage, costs or expenses section and the proof of financial responsibility section and any claims and payment of claims made under them. This committee may only be dissolved by the joint operation of federal and provincial legislation.[123]

2.9.1.10 Promotion of Compensation Policies

The Regulator must promote and monitor compensation policies for fishers sponsored by the fishing industry respecting damages of a non-attributable nature.[124]

2.9.2 Inquiries

The Regulator may direct an inquiry into debris, an accident or an incident in an offshore area to which this Division applies that results in death, injury or danger to public safety or to the environment. The inquiry becomes mandatory if the debris, an accident or incident related to any work or activity to which this Division applies occurs or is found in any portion of the offshore area and is "serious," as defined by regulation. Moreover, the Regulator must ensure that the person who conducts the inquiry is not employed by the Regulator.[125]

A person authorized by the Regulator to conduct the inquiry has all the powers of a person appointed as a commissioner under Part I of the *Inquiries Act*. As soon as feasible upon the conclusion of the inquiry, the person must submit a report to the Regulator, together with the evidence and other material that was before the inquiry. The Regulator must publish the report within 30 days after receiving it, and may supply copies of it in any manner and on any terms that the Regulator considers appropriate.[126]

2.9.3 Regulations

Subject to a specified section of each of the accord implementation Acts,[127] the Governor in Council may make regulations for the purposes of safety, the protection of the environment and accountability, and the regulations may incorporate materials by reference. Regulations may be made to address the following:

- respecting the definitions of "facility" and "equipment" in relation to offshore renewable energy projects, and "serious" for the purposes of an accident inquiry under this Division;
- respecting works and activities related to offshore renewable energy projects;
- authorizing the Regulator to make any orders that are specified in the regulations and to exercise any powers and perform any duties necessary for the design, construction, operation or abandonment of an offshore renewable energy project within the offshore area;
- respecting arbitrations relating to offshore renewable energy projects for the purposes of entry onto a portion of the offshore area without the consent of the occupier or where entry has been refused, including the costs of or incurred in relation to such arbitrations;
- respecting the approvals to be granted as terms and conditions of an offshore renewable energy authorization;

- prohibiting, in relation to offshore renewable energy projects, the introduction into the environment of substances, classes of substances and forms of energy, in prescribed circumstances;
- respecting the creation, conservation and production of records relating to offshore renewable energy projects; and
- prescribing, in relation to offshore renewable energy projects, anything that is required to be prescribed for the purposes of this Part.[128]

2.9.3.1 Equivalent Standards and Exemptions

The Chief Safety Officer and Chief Conservation Officer may authorize the substitution of equipment, methods, measures, or standards in lieu of those required by regulations made under this section if the officers are satisfied it would provide an equivalent level of safety and protection of the environment to that provided by compliance with the regulations. As well, the officers may grant an exemption from any requirement imposed by any regulation under this section if they are satisfied with the level of safety and protection of the environment that will be achieved without compliance with that requirement. These powers may be exercised by the Chief Safety Officer alone if the regulatory requirement referred to in this section does not relate to protection of the environment, and the Chief Conservation Officer alone may exercise those powers if the regulatory requirement does not relate to safety.[129]

2.9.3.2 Guidelines and Interpretation Notes

The Regulator may issue and publish guidelines and interpretation notes for applying the new provisions related to offshore renewable energy authorizations and any regulations made under specified sections of the accord implementation Acts.[130]

2.10 DIVISION II.2

2.10.1 Safety and Protection of Persons, Property and the Environment

2.10.1.1 Orders and Measures to Be Taken

The Regulator may, by order, direct the holder of an offshore petroleum or renewable energy authorization or any other person, a provincial government or Crown corporation or a local authority to take measures in respect of an abandoned facility that the Regulator considers necessary for the safety of persons or the abandoned facility or for the protection of property or the environment. Failure to comply with an order may result in the Regulator taking any action or measures it considers necessary, or it may authorize either an officer or employee of the Regulator or a third party to take the necessary action or measures.[131]

2.10.1.2 Regulations

Subject to a specified section of each of the accord implementation Acts,[132] the Governor in Council may make regulations respecting abandoned facilities, including with respect to liability and to the proof of financial responsibility or financial resources to be provided by an applicant or holder of an offshore renewable energy authorization.[133]

2.10.1.3 Abandoned Facilities

No person shall make contact with, alter or remove an abandoned facility unless they are authorized to do so by order of the Chief Safety Officer or by regulations. The Governor in Council may make regulations respecting the circumstances in which or conditions under which such an order by the Chief Safety Officer is not necessary.[134]

2.10.1.4 Serious Bodily Injury

An operational safety officer or the Chief Safety Officer may order that an offshore petroleum or renewable energy project cease or continue only in accordance with certain terms if they believe, on reasonable grounds, that continued exploration, drilling, production, conservation, processing or transportation related to the project is likely to result in serious bodily injury.[135]

Provisions related to "Appeals and Administration" in the Acts are amended.

2.10.2 Installation or Facility Manager

New sections are added to Division III of Part III of the accord implementation Acts; that Part deals with Appeals and Administration. The new sections outline requirements for and powers of an offshore renewable energy "facility manager" and offences and penalties.[136] These provisions are similar to the current sections concerning "installation" managers for petroleum-related works or activities and offences and penalties in this Part of the Acts. The heading before these sections is replaced with the heading "Installation or Facility Manager."[137]

2.10.2.1 Facility Manager

Every holder of an offshore renewable energy authorization using a prescribed facility must place a facility manager in command of that facility. That manager must meet any prescribed qualifications, and is responsible for the safety of the facility and the persons at it. The facility manager has the power to do anything required to ensure the safety of the facility and the persons at it, and may give orders to any person who is at the facility; order that any person who is at the facility be restrained or removed;

and obtain any information or documents. In an emergency situation (as prescribed by regulation), the facility manager's powers are extended so that they also apply to each person in charge of a vessel, vehicle or aircraft that is at the facility or that is leaving or approaching it.[138]

2.10.3 Offences and Penalties

The section relating to offences and penalties is amended to include as an offence the undertaking or carrying out work or activity without an offshore renewable energy authorization, or not complying with the terms of the authorization. It is also an offence to not comply with an order of a facility manager (among others).[139]

2.11 AMENDMENTS RELATED TO OCCUPATIONAL HEALTH AND SAFETY PROVISIONS OF THE ACTS

Certain sections of Division III, Part III.1 are amended. Part III.1 relates to Occupational Health and Safety. For example, the definition of "authorization" in this Part is amended to include an authorization related to an offshore renewable energy project. The term "marine installation or structure" is slightly rearranged and amended to include "any facility or structure used for producing, storing or transmitting an offshore renewable energy product, including an electrical substation."[140]

2.12 APPLICATION OF PART

The accord implementation Acts are amended to ensure the occupational health and safety regime outlined in Part III.1 of the Acts applies to workplaces situated in the offshore area for the purposes of offshore renewable energy projects, as well as offshore workplaces for the exploration, drilling, production, conservation, or processing of petroleum.[141]

2.12.1 Non-application

The following federal authorities do not apply to these workplaces: Parts II and III of the *Canada Labour Code*, the *Canadian Human Rights Act* and the *Non-smokers' Health Act*.[142]

2.12.2 Application of Relevant Provincial Social Legislation

The Acts are amended to ensure provincial social legislation also applies to offshore renewable energy project workplaces as well as offshore petroleum workplaces, as long as it is not inconsistent with the occupational health and safety regime set out in the accord implementation Acts. Provincial social legislation includes legislation addressing matters such as human rights, labour standards and workers' compensation and health.[143]

With regard to industrial relations, provincial legislation applies to a marine installation or structure in connection with petroleum or renewable energy projects in the offshore area that is, or is becoming, attached or anchored to the seabed (among other things). For all other marine installations or structures in connection with renewable energy or petroleum projects, industrial relations are governed by Part I of the *Canada Labour Code*.[144]

2.12.3 Exception to Requirement for Monthly Inspection

A workplace or part of a workplace that is normally unattended and used for carrying out an offshore renewable energy project is exempt from the requirement to be inspected at least once a month.[145]

2.13 TRANSITIONAL PROVISIONS

Provisions ensure the transition from the term "Board" to "Regulator" in the accord implementation Acts and other Acts when the former term is repealed and the latter term comes into force. Additional sections ensure that persons who are members of the Board continue the remainder of their term as members of the Regulator, and current employees of the Board continue as employees of the Regulator.[146]

2.14 PART 3 – CONSEQUENTIAL AMENDMENTS, COORDINATING AMENDMENTS AND COMING INTO FORCE

2.14.1 Consequential Amendments

The *Hibernia Development Projects Act* is amended to reflect the updated name of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*, as well as the amended term "Regulator."[147]

2.14.1.1 Terminology

Every reference to "*Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*" and "*Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*" is replaced by a reference to "*Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*" and "*Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*," respectively, in legislation and bills before Parliament as specified in Bill C-49.[148] Similarly, every reference in specified provisions to "Canada–Newfoundland and Labrador Offshore Petroleum Board" and "Canada–Nova Scotia Offshore Petroleum Board" is replaced by a reference to "Canada–Newfoundland and Labrador Offshore Energy Regulator" and "Canada–Nova Scotia Offshore Energy Regulator," respectively.[149]

2.14.2 Coordinating Amendments

Coordinating amendments ensure that the *Canada Oil and Gas Operations Act* correctly reflects the name of the relevant accord implementation Act and the name of the relevant regulatory agency regardless of the timing of the coming into force of specified sections of Parts 1 or 2 of Bill C-49.[150]

A similar coordinating amendment aligns specific amendments in Parts 1 and 2 of Bill C-49 with those made by *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, chapter 28 of the Statutes of Canada, 2019 (the "other Act"). These coordinating amendments replace text in specified sections of the *Impact Assessment Act* with text that correctly reflects the amended name of the relevant accord implementation Act, the amended term "Energy Regulator" in lieu of "Petroleum Board," and corrects references to specific subsections as amended by this bill **and by the House committee**. These coordinating amendments ensure that the updated terms in Bill C-49 are reflected in the *Impact Assessment Act* regardless of the timing of the coming into force of specified sections of either Bill C-49 or the other Act.[151]

A further coordinating amendment adds identical sections to each of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management Act* and the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*. These new sections are to be added on the first day on which both specified sections of the other Act and certain provisions of Bill C-49 (which specifically relate to offshore renewable energy authorizations and impact assessments[152]) are in force.

The new sections are as follows.

2.14.2.1 Commissioner Appointed from Roster

A commissioner appointed for a public review under either of the accord implantation Acts may be from a roster of members of the respective Offshore Energy Regulator.[153]

2.14.2.2 Terms of Reference – Consultation

If the Minister of the Environment consults the Chairperson of the Regulator respecting the establishment of a review panel's terms of reference under section 46.1(1) of the *Impact Assessment Act*, the Chairperson shall consult the Federal Minister and the Provincial Minister.[154]

2.14.2.3 Consultation – Selection of Members to Roster

If the Minister of the Environment consults the Federal Minister respecting the selection of any member of the Regulator to a roster under section 50(1)(b.1)(i) of the *Impact Assessment Act*, the Federal Minister must consult with the Provincial Minister and the Chairperson of the Regulator.[155]

2.14.2.4 Consultation – Selection of Persons to Roster

If the Minister of the Environment consults the Federal Minister and the Regulator respecting the selection of any person to a roster under section 50(1)(b.1)(ii) of the *Impact Assessment Act*, the Regulator must consult with the Federal Minister and the Provincial Minister.[156]

2.14.2.5 Consultation with Provincial Minister – Referral to Governor in Council

If the Minister of the Environment consults the Federal Minister under section 61(1) of the *Impact Assessment Act* with respect to the referral to the Governor in Council of an impact assessment report for a designated project, the Federal Minister shall consult the Provincial Minister.[157]

2.14.3 Coming into Force

2.14.3.1 Orders in Council

> 221 (1) Subject to subsections (2) and (**6**), the provisions of this Act, other than sections 218 to 220, come into force on a day or days to be fixed by order of the Governor in Council.
>
> (2) Sections 2, 3 and 210 to **213, sections 214(1)(a) to (e) and (g) to (i), section 214(2) and sections 215(a) and (c)** come into force on a day to be fixed by order of the Governor in Council.
>
> **(2.1) Sections 47(6.1), 61(2) and 62(2) and section 62.1 come into force on a day to be fixed by order of the Governor in Council, but that day must not be before the day on which both section 62(1) and section 62.2 are in force.**
>
> (3) Sections 108 **and** 109 **and sections 216(1)(a) to (e) and (g) and (h), section 216(2) and sections 217(a), (b) and (d) come into force** on a day to be fixed by order of the Governor in Council.
>
> **(4) Sections 156(6.1), 169(2) and 170(2) and section 170.1 come into force on a day to be fixed by order of the Governor in Council, but that day must not be before the day on which both section 170(1) and section 170.2 are in force.**

(5) Sections 214(1)(f) and 215(b) come into force on a day to be fixed by order of the Governor in Council, but that day must not be before the day on which section 2, section 62(1) and section 62.2 are all in force.

(6) Sections 216(1)(f) and 217(c) come into force on a day to be fixed by order of the Governor in Council, but that day must not be before the day on which section 108, section 170(1) and section 170.2 are all in force.[158]

NOTES

1. **The Minister of Justice tabled a Charter Statement on 12 June 2023. See Government of Canada, *Bill C-49: An Act to amend the Canada–Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, Charter Statement, 12 June 2023.**
2. *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, S.C. 1987, c. 3.
3. *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, S.C. 1988, c. 28.
4. Government of Canada, *Canada and France to Work Together in Atlantic Waters*, News release, 17 May 2005.
5. Natural Resources Canada, *Canada and Newfoundland and Labrador Announce Intent to Expand the Mandate of Offshore Energy Regime to Support the Transition to a Clean Economy and Create Sustainable Jobs*, News release, 5 April 2022.
6. Natural Resources Canada, *Canada and Nova Scotia Announce Intent to Expand the Mandate of Offshore Energy Regime to Support the Transition to a Clean Economy and Create Sustainable Jobs*, News release, 11 April 2022.
7. Impact Assessment Agency of Canada, *Governments of Canada and Newfoundland and Labrador launch regional assessment to support future decisions on offshore wind projects in the province*, News release, 23 March 2023.
8. Impact Assessment Agency of Canada, *Governments of Canada and Nova Scotia launch regional assessment to support future decisions on offshore wind projects in the province*, News release, 23 March 2023.
9. *Impact Assessment Act*, S.C. 2019, c. 28, s. 1.
10. Natural Resources Canada, *Building Offshore Renewables in Newfoundland and Labrador and Nova Scotia*, News release, 30 May 2023.
11. International Energy Agency (IEA), *Wind*.
12. IEA, *Offshore wind to become a $1 trillion industry*, News release, 25 October 2019.
13. IEA, *Wind*.
14. Newfoundland and Labrador, Industry, Energy and Technology, *Ministerial Statement – Minister Parsons Announces End of Moratorium on Wind Development*, News release, 5 April 2022.
15. Newfoundland and Labrador, Industry, Energy and Technology, *Update Provided on Wind Development Process*, News release, 3 October 2022.
16. Nova Scotia, Natural Resources and Renewables, *Province Releases Offshore Wind Road Map*, News release, 14 June 2023.
17. Nova Scotia, Premier's Office and Natural Resources and Renewables, *Province Sets Offshore Wind Target*, News release, 20 September 2022.

18. Government of Canada, *Joint declaration of intent between the Government of Canada and the Government of the Federal Republic of Germany on establishing a Canada–Germany Hydrogen Alliance*.

19. *Reference re: Impact Assessment Act*, 2023 SCC 23.

20. Impact Assessment Agency of Canada, *Government of Canada Releases Interim Guidance on the Impact Assessment Act*, News release, 26 October 2023.

21. See, for example, amended clause 38, amending section 91(1)(b) to change the word "criterion" to "criteria" in the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act.* See also amended clause 62, amending section 138.01(3) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* to correct the text to read "conditions required by the Regulator" rather than "conditions be required by the Regulator." See also amended clause 62 amending section 138.012(3) of the French version of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* to correct the reference to the section number cited in that subparagraph from "137.1" to "137.01;" see also amended clause 76 replacing the word "Regulatory" with "Regulator" in new section 183.13(6) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and the same change in clause 185 to new section 188.13(6) in the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act.*

22. Clauses 1 and 2 amend the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clauses 107 and 108 amend the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

23. Clause 3 amends section 2 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 109 amends section 2 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

24. Clause 10, amending subsection 9(1) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 114, amending section 9(1) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

25. Clause 3, amending section 2 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 109, amending section 2 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

26. Clause 4, adding new section 2.1 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 110, adding new section 2.1 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

27. Clause 8, adding new section 7.1 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 112, adding new section 7.1 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*. In the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, "Atlantic Accord means the Memorandum of Agreement between the Government of Canada and the Government of the Province on offshore petroleum resource management and revenue sharing dated February 11, 1985, and includes any amendments thereto". [AUTHOR'S EMPHASIS] In the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, "Accord means the Canada–Nova Scotia Offshore Petroleum Resources Accord dated August 26, 1986 and entered into by the Government of Canada, as represented by the Prime Minister of Canada and the Federal Minister, and by the Government of Nova Scotia, as represented by the Premier of Nova Scotia and the Provincial Minister, and includes any amendments thereto." [AUTHOR'S EMPHASIS]

28. Clause 12, adding new section 17.1 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 117, adding new section 18.1 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

29. See, for example, clause 19, adding new heading “Petroleum-related Decisions” after section 30 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 123, adding the same heading after section 31 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*; clause 29, amending the heading before section 57 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 138, amending the same heading before section 60 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*; clause 60, amending the heading before section 138 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 168 amending the same heading before section 142 of the *Canada–Nova Scotia Offshore Petroleum Resources Implementation Act*; clause 70, amending the heading before section 149 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 178, amending the same heading before section 153 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

30. Clause 19, adding new sections 40.1 to 40.3 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 125, adding new sections 38.1 to 38.3 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

31. Clause 75(2), amending section 166 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 184(2), amending section 171 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

32. Clause 23, adding new sections 45(7), 45(8) and 45(9) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 130, adding new sections 46(8), 46(9) and 46(10) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

33. Clause 25, amending section 47 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 134, amending section 49 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

34. Clause 28, adding new sections 56.1 to 56.5 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 137, adding new sections 59.1 to 59.5 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

35. Clause 36, amending section 75(3) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 145, amending section 78(3) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

36. Clause 36, adding new sections 75(3.1) and 75(3.2) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 145, adding new sections 78(3.1) and 78(3.2) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

37. Clause 38, adding new Division V, consisting of new sections 88 through 96.1, to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 147, adding new Division V, consisting of new sections 91 through 98.2, to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

38. Clause 38, new section 96.1 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 147, new section 98.2 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

39. Clause 38, adding new section 94(2) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*: clause 147, adding new section 97(2) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

40. See section 60(2) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 63(2) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

41. See sections 61(2) and 68(2) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and sections 64(2) and 71(2) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

42. Section 45(1) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 45(1) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

43. Clause 38, adding new section 96.6 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 147 adding new section 98.7 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

44. Clauses 39 through 44, amending specified sections within Division VI of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*: clauses 148 to 153, amending specified sections within Division VI of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

45. Clause 41, adding new subsection 97.1(3) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 150, adding new section 99.1(3) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

46. Clause 54, amending the heading before section 135 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 162, amending the heading before section 138 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

47. Clause 58, adding new section 137.01 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 166, adding new section 140.2 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

48. Clause 62, adding new section 138.01 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.011 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

49. Ibid.

50. Clause 61, adding new section 138(4)(b.1) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 169, adding new section 142(4)(b.1) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* for petroleum-related projects. Clause 62, adding new section 138.01(3)(e) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.011(3)(e) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* for offshore renewable energy projects.

51. Clause 62, adding new section 138.011 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.012 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

52. Clause 62, adding new section 138.011(2) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.012(2) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

53. House of Commons, Standing Committee on Natural Resources, *Minutes of Proceedings*, Meeting 88, 29 February 2024, and *Minutes of Proceedings*, Meeting 91, 8 April 2024. For a detailed discussion of the meaning and intent of these amendments, see House of Commons Standing Committee on Natural Resources, *Evidence*, 29 February 2024 (Julie Dabrusin, M.P. at approximately 1650).

54. Ibid.

55. House of Commons, Standing Committee on Natural Resources, *Minutes of Proceedings*, Meeting 91, 8 April 2024.

56. Section 9(1) of the *Impact Assessment Act*. In general, under the *Impact Assessment Act*, federal impact assessments are done on designated projects, which are designated either by regulation or by the Minister of Environment and Climate Change (the minister). The *Physical Activities Regulations* (commonly referred to as the Project List) is the regulation that designates those projects. That Act also provides a discretionary authority that enables the minister to designate a proposed project that is not on the Project List. The minister may exercise this authority if the carrying out of the project may cause adverse effects within federal jurisdiction or adverse direct or incidental effects, or public concerns related to those effects warrant the designation.

57. Section 81 of the *Impact Assessment Act* defines an “authority” as a federal authority (which is defined in section 2 of the *Impact Assessment Act*) and any other body set out in Schedule 4 of that Act.

58. Sections 92 and 95 of the *Impact Assessment Act* authorizes the Minister of Environment and Climate Change to establish a committee to conduct regional or strategic assessments, respectively.

59. Clause 62, adding new sections 138.012(1), 138.013, 138.016 and 138.019 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new sections 142.013(1), 142.014, 142.017 and 142.02 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

60. Clause 62, adding new section 138.012(2) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.013(2) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

61. Clause 62, adding new section 138.015 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.016 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

62. Clause 62, adding new section 138.012(3) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.013(3) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

63. Clause 62, adding new sections 138.012(5) and 138.012(8), respectively, to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new sections 142.013(5) and 142.013(8), respectively, to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

64. Clause 62, adding new sections 138.012(4) and 138.012(7), respectively, to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new sections 142.013(4) and 142.013(7), respectively, to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

65. Regional assessments assess the positive and adverse effects of multiple existing and future physical activities in a specific geographic region, including cumulative effects. It is broader in scope than a project-focused impact assessment, helps better understand the regional context, and provides a more comprehensive analysis to help inform future impact assessment decisions.

66. Strategic assessments examine the Government of Canada's existing or proposed policies, plans, or programs relevant to impact assessment. They may also focus on issues relevant to conducting impact assessments of designated projects or of a class of designated projects. Strategic assessments do not focus on specific projects; rather, they seek to inform and influence subsequent impact assessments. They can improve the effectiveness and efficiency of impact assessments by providing information and analysis that may not be otherwise available at the project level, and by providing advice on how issues and the effects of policies, plans and programs should be addressed.

67. Clause 62, adding new section 138.017(1) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.018(1) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

68. Clause 62, adding new section 138.018(1) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.019(1) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

69. Clause 62, adding new sections 138.017(2) and 138.018(2) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new sections 142.018(2) and 142.019(2) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, respectively.

70. Clause 62, adding new section 138.02 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.021 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

71. Clause 62, adding new section 138.021 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 170, adding new section 142.022 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

72. Clause 66, adding new sections 139(8), 139(10) and 139(12) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 174, adding new sections 143(8), 143(10) and 143(12) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

73. Clause 66, adding new section 139(9) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 174, adding new section 143(9) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

74. Clause 66, adding new section 139(11) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 174, adding new section 143(11) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

75. Clause 71(2), amending section 149(1)(c)(ii) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 179(2), amending section 153(1)(c)(ii) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

76. Clause 75(2), amending section 166 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 184(2), amending section 171 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

77. Clause 76 adds new section 183.01 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185 adds new section 188.01 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

78. Clause 76, adding new section 183.02 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.02 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

79. Clause 76, adding new section 183.03 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.03 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

80. Clause 76, adding new section 183.04 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.04 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

81. Clause 23, amending section 45 by adding new subsection 45(9) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 130, amending section 45 by adding new subsection 45(10) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

82. Clause 66, amending section 139 by adding new subsection 139(9) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 174, amending section 143 by adding new subsection 143(9) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

83. Clause 76, adding new section 183.04(2) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 185, adding new section 188.04(2) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

84. Clause 76, adding new section 183.07(3) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 185, adding new section 188.07(3) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

85. Clause 76, adding new section 183.16 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and clause 185, adding new section 188.16 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

86. Ibid.

87. Ibid.

88. Clause 76, adding new sections 183.05 and 183.06 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new sections 188.05 and 188.06 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

89. An “interest owner” is a person or group of persons who hold an interest. Under section 47 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 49 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, an interest is “any former exploration agreement, former lease, former permit, former special renewal permit, exploration licence, production licence or significant discovery licence.”

90. Clause 76, adding new section 183.07 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.07 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

91. Under section 166 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 171 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, a "royalty owner" is "a person, including Her Majesty, who owns a royalty interest." In those same sections, a "working interest owner" is a person who owns a working interest. A "working interest" means "a right, in whole or in part, to produce and dispose of petroleum from a pool or part of a pool, whether such right is held as an incident of ownership of an estate in fee simple in the petroleum or under a lease, agreement or other instrument, if the right is chargeable with and the holder thereof is obligated to pay or bear, either in cash or out of production, all or a portion of the costs in connection with the drilling for, recovery and disposal of petroleum from the pool or part thereof."

92. Clause 76, adding new section 183.08 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.08 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

93. Ibid.

94. Clause 76, adding new section 183.09 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.09 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

95. Clause 76, adding new section 183.1 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.1 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

96. Section 175(1) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and section 180(1) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

97. Clause 76, adding new section 183.1 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.1 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

98. Ibid.

99. Clause 76, adding new section 183.16(9) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.16(9) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

100. Clause 76, adding new section 183.11 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.11 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

101. Ibid.

102. Clause 76, adding new section 183.12 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.12 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

103. Ibid.

104. Ibid.

105. Clause 76, adding new section 183.13 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.13 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

106. "Tract participation" means the share of production from a unitized zone that is allocated to a unit tract under a unit agreement or unitization order or the share of production from a pooled spacing unit that is allocated to a pooled tract under a pooling agreement or pooling order: section 166 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 171 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

107. Clause 76, adding new section 183.13 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.13 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

108. Clause 76, adding new section 183.14 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and referring to new section 183.13 of that Act; clause 185, adding new section 188.14 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, and referring to new section 188.13 of that Act.

109. Clause 76, adding new section 183.17 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.17 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

110. Clause 76, adding new section 183.18 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.18 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

111. Ibid.

112. "Use values" and "non-use values" are defined in Government of Canada, *Economic value of the environment*:

> Use values are associated with direct use of the environment such as fishing and swimming in a lake, hiking in a forest – or commercial uses such as logging or farming. Non-use values are related to the knowledge of the continued existence of the environment (existence values), or the need to leave environmental resources to future generations (bequest values).

113. Clause 76, adding new section 183.19 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.19 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

114. Ibid.

115. Ibid.

116. Ibid.

117. Ibid.

118. Ibid.

119. Ibid.

120. Clause 76, adding new section 183.2 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.2 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

121. Ibid.

122. Ibid.

123. Clause 76, adding new section 183.22 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.22 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

124. Ibid.

125. Clause 76, adding new section 183.23 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.23 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

126. Ibid.

127. Section 7 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 6 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* state that before a regulation is made under specified subsections of the respective Act, the federal minister must consult with and obtain the approval of the provincial minister regarding the proposed regulation.

128. Clause 76, adding new section 183.25 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.25 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

129. Ibid.

130. Clause 76, adding new section 183.27 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.27 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

131. Clause 76, adding new section 183.28 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.28 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

132. Section 7 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 6 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* state that before a regulation is made under specified subsections of the respective Act, the federal minister must consult with and obtain the approval of the provincial minister regarding the proposed regulation.

133. Clause 76, adding new section 183.29 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.29 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

134. Clause 76, adding new section 183.3 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 185, adding new section 188.3 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

135. Clause 79, amending section 193(1) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 186, amending section 198(1) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

136. Clause 81, adding new section 193.3 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 188, adding new section 198.3 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

137. Clause 80, amending the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 187, amending the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

138. Clause 81, adding new section 193.3 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 188, adding new section 198.3 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

139. Clause 82, amending section 194(1) by adding new paragraph (e.1) and amending paragraph (f) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 189, amending section 199(1)(f) by adding new paragraph (e.1) and amending paragraph (f) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

140. Clause 87, amending section 205.001 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 192, amending section 210.001(1) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

141. Clause 88, amending section 205.003(1) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 192, amending section 210.003(1) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

142. Clause 89, replacing sections 204.004 to 205.006 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 194, replacing sections 210.004 to 210.006 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

143. Clause 90, replacing section 205.007(1) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 195, replacing section 210.007(1) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

144. Clause 91, replacing section 205.008(1)(a) and section 205.008(2) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clause 196, replacing section 210.008(1)(a) and section 210.008(2) of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

145. Clauses 92 and 93, amending section 205.013(1)(q) and adding new section 205.019(1)(p) to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clauses 197 and 198, amending section 210.013(1)(q) and adding new section 210.019(1)(p) to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

146. Clauses 104 to 106 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and clauses 207 to 209 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

147. Clauses 210 to 212.

148. Clauses 214 and 216.

149. Clauses 215 and 217.

150. Clauses 218 and 219.

151. Clause 220.

152. Clauses 170 and 62 of Bill C-49, relating to amendments to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, respectively.

153. Cause 220(10) adding new section (2.1) to section 44 of the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management Act* and clause 220(11) adding new section (2.1) to section 44 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*.

154. Clause 220(10), adding new section 142.0131 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management Act* and clause 220(11) adding new section 138.0121 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*.

155. Clause 220(10), adding new section 142.0141 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management Act* and clause 220(11) adding new section 138.0131 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*.

156. Clause 220(10), adding new section 142.0142 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management Act* and clause 220(11) adding new section 138.0132 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*.

157. Clause 220(10), adding new section 142.0143 to the *Canada–Nova Scotia Offshore Petroleum Resources Accord Implementation and Offshore Renewable Energy Management Act* and clause 220(11) adding new section 138.0133 to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation and Offshore Renewable Energy Management Act*.

158. Clause 221.