



CANADIAN ASSOCIATION
OF PETROLEUM PRODUCERS

June 2, 2009

The Honourable Lisa Raitt
Minister of Natural Resources Canada
c/o Mr. Michael Hnetka
Advisor, Natural Resources Canada
Frontier Lands Management Division
580 Booth Street
Ottawa, ON K1A 0E4

Dear Minister Raitt:

Re: *Canada Gazette, Part I, April 18, 2009 – Proposed Regulations: Canada Oil and Gas Drilling and Production Regulations, Newfoundland Offshore Petroleum Drilling and Production Regulations, Nova Scotia Offshore Petroleum Drilling and Production Regulations*

The Canadian Association of Petroleum Producers (CAPP) represents 130 companies that explore for, develop and produce natural gas, natural gas liquids, crude oil, oil sands, and elemental sulphur throughout Canada. CAPP member companies produce more than 90 per cent of Canada's natural gas and crude oil.

Over the past couple of years National Resources Canada department staff, together with representatives from the provincial governments of Nova Scotia and Newfoundland and Labrador and the National Energy Board, Canada-Newfoundland and Labrador Offshore Petroleum Board and the Canada-Nova Scotia Offshore Petroleum Board have engaged in a helpful and meaningful dialogue on the development of goal oriented drilling and production regulations. This cooperative approach goes some distance in bridging and building understanding between industry and regulators. CAPP appreciates this collaborative approach and suggests that this model should be followed for the pursuant regulatory changes under the Frontier Offshore Regulatory Renewal Initiative.

In response to the Canadian Gazette Part I, published on April 18, 2009, we have reviewed and discussed the proposed regulations with our members active in Northern and Eastern Canada and offer the following general comments:

- Industry is aware that guidance documents related to the proposed regulations are under development by the three regulatory boards, but industry has not had an opportunity to review a complete draft to date. During the consultation on the regulation development prior to Gazette I, industry was told that a number of concerns raised about the regulations would be addressed in the guidance documents. Having to provide comment on the regulation, and planning for operations under the new regulations, without seeing the

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guidance documents creates considerable uncertainty. While we recognize the guidance documents are not regulatory requirements, the issuance of them is an important milestone for the transition to the new regulations. Given that the Drilling and Production Regulations are the first of the new “goal based” regulations under the Canadian Oil and Gas Operations Act (COGOA), we believe that the concurrent release of the guidance documents would provide additional clarity for both industry and regulators, and assist in an effective and successful transition to the new regulations.

RECOMMENDATION: Provide Ministerial discretion, per section 104, to ensure the Drilling and Productions Regulations do not come into force until such time as the guidance documents have been finalized. Further, we believe it is important that the guidance documents be consistent between the three jurisdictions to the greatest extent possible.

- There is no indicated length of approval times for the regulatory body to make decisions or any mechanisms in place to ensure timely responses to industry. Given the limited staff at the regulatory bodies, this could be a significant issue.

RECOMMENDATION: Add a schedule to the regulation highlighting approval times.

- There is concern about the potential impact of the consequential amendments on the certificate of fitness and installation regulations. Given the goal oriented approach to regulation there will undoubtedly be an impact on the scope of work of certifying authorities in the future. Industry does not believe this impact should be extensive or burdensome.

RECOMMENDATION: The increase in scope of the certifying authority should be limited to equipment certification against recognized standards, and not include processes or operational decision making.

- Liability and professional responsibility are of concern. If the operator chooses a certain course of action, they are presumably liable for the consequences of it. A regulator reviewing the course of action toward a goal based objective may not necessarily reach the same conclusion as the operator or proponent. It is unclear from the regulations how a situation will be resolved where the regulator prescribes a course of action different than the professional member of the operator/proponent.

RECOMMENDATION: Clarification is required with respect to how shared liability and accountability between the regulator and operator will be approached where the regulator prescribes a course of action, contrary to the professional opinion of the operator, in the context of goal based regulations.

- Industry supports a regulatory model that recognizes advances in technology and provides flexibility in the means to comply. In theory, such a model should result in a minimum number of deviation requests that rely on a demonstrated equivalency to a regulatory requirement. However there remain some prescriptive elements in the proposed regulation that will ultimately lead to deviation requests.

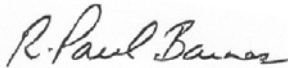
RECOMMENDATION: Industry suggests utilizing the guidance documents development process to ensure the number of potential deviation requests is truly minimized.

- Several suggested enhancements to the definitions and specific sections in the proposed regulation are also attached to this letter for consideration.

CAPP appreciates the efforts of governments and Boards to move toward a more goal oriented regulatory framework for this industry. The offshore petroleum industry is highly competitive worldwide. The ability of Canada to compete for investment from our industry relies heavily on a stable, cost effective and fair regulatory regime.

Should you have any questions about our submission, please do not hesitate to contact the undersigned. Your attention to the matters raised is appreciated.

Sincerely,



R. Paul Barnes
Manager, Atlantic Canada



Mike Peters
Manager, Northern Canada

Attachment (#152711)

June 2, 2009

Drilling and Production Regulations – Gazette I

CAPP Comments

CAPP Comments:

All section references are to the Canada Oil and Operations Act (COGOA) version of the regulations, unless otherwise noted.

Definitions:

The definition of “pollution” is too broad and does not identify a trigger or required impact. This definition will either require a comprehensive list of potential release / waste criteria – including “energy release” criteria OR will define all other forms of release as pollution. According to this definition the following would be considered pollution:

- Lights
- System waste heat – to air, soil, water
- Other items not included in the authorization (sewage limits, process water – temp and constituents, drilling material, etc.)

And there is no trigger to determine if the pollution causes impact.

RECOMMENDATION: Industry suggests the following wording for consideration:

“pollution” means the introduction into the natural environment of any substance outside the limits established in the authorization, including spills and that, if added to the natural environment, would degrade or alter or form part of a process of degradation or alteration of the quality of the natural environment to an extent that is detrimental to their use by humans or by an animal or plant that is useful to humans; and

Specific sections:

- 7(2) We believe there is an omission in the proposed text.

RECOMMENDATION: Suggest the wording be modified to: *The Board shall approve the flow system, the flow calculation procedure and the flow allocation procedure if the applicant demonstrates that the system and procedures facilitate reasonably accurate measurements and **allocate**, on a pool or zone basis, the production from and injection into individual wells.*

- 9(f): The proposed approach of describing the chemical substance selection process is not practical as the explanation may take significant effort while the

chemical use will typically be within guidelines. This will introduce a considerable burden on the operator.

RECOMMENDATION: Suggest revising the wording to “*for chemicals which do not require screening through the Offshore Chemical Selection Guidelines, a description of the methods for the selection, evaluation and use of chemical substances including process chemicals and drilling fluid ingredients;*”

- 19i: The wording in (i) should be modified to align more closely with what is believed to be the intent of the section: "to take all reasonable precautions". It is unclear if the current wording will allow for malfunctions, breakdowns, repairs, etc., that may prevent the equipment from being "available and in an operable condition" but where the necessary mitigation measures have been taken.

RECOMMENDATION: The following wording is proposed: *all equipment required for safety and environmental protection is available and in an operable condition or in the case where the equipment is not available or in an operable condition, necessary mitigation measures are put in place while the equipment issues are being corrected.*

25a: See 69

- 25b: Industry continues to have concerns over the prescriptive portion of this section. This section seems to recognize and require a risk based approach by noting that the inspection interval must ensure continued safe operation. This is then contradicted by including a prescriptive 5 year period. This level of prescription has no benefit other than to necessitate a number of potential RQFs to be developed and issued to the regulator for valid risk based extensions beyond the 5 year period.

RECOMMENDATION: The following wording is proposed for consideration: *a comprehensive inspection that includes a non-destructive examination of critical joints and structural members of an installation and any critical drilling or production equipment is made at an interval to ensure continued safe operation of the installation or equipment;*

- 27: The practicality of this section depends on the definition used for rectified. The concern is that the requirement does not allow the operator to assess the risk, apply mitigation measures and then plan the work to be performed.

RECOMMENDATION: For clarity, while maintaining the goal of this section the following wording is suggested: *The operator shall ensure that any defect in the installation, equipment, facilities and support craft that may be a hazard to safety*

or the environment is accessed and rectified without delay or necessary mitigation measures are put in place to minimize the hazards while the defect is being corrected.

- 51: The bold wording in this section which reads: “The operator shall ensure that every formation in a well is tested and sampled to obtain reservoir pressure data and fluid samples from the formation, if there is an indication that the data or samples would *contribute substantially* to the geological and reservoir evaluation” (emphasis added) is a very subjective evaluation and one that cannot necessarily be made in advance. When and how would the regulator decide that this information would “contribute substantially to the geological and reservoir evaluation”? Since the operator has invested millions of dollars in the drilling of the well, it is reasonable to assume that the operator is in a position to determine if a given piece of information will “contribute substantially”.

RECOMMENDATION: The following wording is suggested: “The operator shall ensure that every formation in a well is tested and sampled to obtain reservoir pressure data and fluid samples from the formation, ***where in the operator’s opinion***, the data or samples would contribute substantially to the geological and reservoir evaluation”.

67(b): Section 75 (76) already states that an incident shall be reported as soon as circumstances permit. Reporting of flaring and the volume flared due to an emergency event (incident) would be secondary to the initial reporting as the system is designed to permit such a relief and in itself is not a hazard. During discussions with the PWG it was considered acceptable for the emergency flaring and an estimate (most metering equipment for flaring measurements will not accurately measure an emergency relief scenario) of the volume flared to be reported during the daily reporting process.

RECOMMENDATION: It is suggested that the wording be revised to reflect the above: *it is necessary to do so because of an emergency situation and the Board is notified of the flaring or venting and of the amount flared or vented as soon as the circumstances permit.*

- 69: A portion of this section reads: “The operator shall ensure that all support craft are designed, constructed and maintained to supply the necessary support functions...” The Operator has the legal relationship with the regulator and is accountable for ensuring support craft are fit for purpose and comply with all applicable regulatory requirements. Due to the lack of guidance documents there are concerns as to how this requirement will be applied consistently across industry. We ask that the guidance documents clearly outline the Boards’ expectations of the level of operator oversight to meet this goal.

RECOMMENDATION: The following wording is suggested: "The operator shall ensure that support craft are *certified* for the *specific* duty they perform, *and are operated and maintained in accordance with approved recognized standards and applicable regulations.*"

- 75: The definition of "incidents" includes near miss incidents and this section requires notification for all incidents. A definition of "near miss" can be subjective and this will lead to inconsistencies in the notifications. Further, reporting of near miss incidents will also increase the regulatory burden on the industry with little value added.

RECOMMENDATION: Require operators to have a system to encourage near miss reporting, tracking of these events and evaluate for trends so lessons can be applied. The system could then be included in the scope of a management system audit for compliance to the regulations.

- 86 (Newfoundland and Labrador and Nova Scotia versions): Each of the three regulations has a requirement for the operator to submit an annual production report. However, the scope of the report differs among the regulations. The Nova Scotia and Newfoundland and Labrador versions require provision of capital and operating costs for the previous year, current year and a two year forecast. Provision of this type of data is of concern to the industry for the following reasons:
 - It is not clear that the Accords Acts authorize or provide for this level and type of information to be required by regulation;
 - Since each operator has different cost structures, it is unlikely the data could be relied upon to assess or compare conservation or management of the resource.
 - The projection for a two year period may not exist since some joint ventures approve business plans on a one year basis only; it would not be appropriate for the regulator to require the generation of data solely for the regulator's processes when the business would not otherwise generate the data;
 - The relative value of a forecast is suspect because business or operating conditions may change once the forecast is submitted resulting in inaccurate information being filed;
 - It is not clear why this requirement is only listed within the scope of the regulations intended for administration by the two offshore Boards;
 - It is unclear what, if any, remedies are at the regulator's disposal, should the forecast expenditures not be attained or exceeded. Hence this appears to be an exercise aimed at collecting confidential business information of the respective owners without a demonstrated use or benefit.
 - This section also requires information on reserve revisions - most offshore producing operations are joint ventures with more than one owner and each of

the owners could have different criteria for establishing a reserve revision as well as different tools for calculating. It is unclear which owner's processes would apply and the result could be inconsistencies with information on file and retained by the owners.

RECOMMENDATION: Industry suggests this section be replaced with a requirement focused on the actual production from the reserve - similar to the current requirement in the offshore production and conservation regulations.

- 90: This section states: "The operator shall ensure that the Board is made aware of any report containing relevant information regarding applied research work or studies obtained or compiled by the operator relative to the operator's work or activities, as soon as the report is available and that a copy of it is submitted to the Board on request." Industry has indicated in the past that this section is too broad. 'Studies' are performed on a daily basis by operators which are all relevant to the operator's work or activities. It would be impractical to make the Board aware of each and every study conducted. It is difficult for industry to offer revised wording to clarify this as it is not apparent what the purpose or intent of this section is.

RECOMMENDATION: Suggest this section be removed. If not, then clarity should be added in the regulation as to the intent of this section and the types of studies/applied research that the Board shall be made aware of.