



# Cost Recovery Guideline

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Summary of Changes		
Date Revised	Sections (if applicable)	Description of Change
August 31, 2024		Updated addresses and put into latest guideline format; Removed regulation text and replaced with cross-references to the regulations.

## Foreword

The Canada-Nova Scotia Offshore Petroleum Board and the Canada-Newfoundland and Labrador Offshore Petroleum Board (the *Regulators*) have issued this Guideline to provide clarity to those with statutory responsibilities in the offshore petroleum industry on the *Canada-Newfoundland and Labrador* and the *Canada-Nova Scotia Offshore Petroleum Cost Recovery Regulations (Cost Recovery Regulations)* under Part III of the *Atlantic Accord Implementation Acts (Accord Acts)*. This Guideline applies to all petroleum operations to which Part III of the *Accord Acts* and the *Cost Recovery Regulations* apply. This Guideline also provides direction on the *Regulator's* interpretation of the regulations.

Guidelines are developed to provide assistance to those with statutory responsibilities (including operators, employers, employees, supervisors, providers of services, suppliers, etc.) under the *Accord Acts* and regulations. Guidelines provide an understanding of how legislative requirements can be met. In certain cases, the goals, objectives and requirements of the legislation are such that no guidance is necessary. In other instances, guidelines will identify a way in which regulatory compliance can be achieved.

The authority to issue Guidelines and Interpretation Notes with respect to legislation is specified by sections 151.1 and 205.067 of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act, S.C. 1987, c.3 (C-NLAAIA)*, sections 147 and 201.64 of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act, RSNL 1990 c. C-2*, subsection 156(1) and section 210.068 of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act, S.C. 1988, c.28 (CNSOPRAIA)* and section 148 and subsection 202BQ(1) of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*. The *Accord Acts* also state that Guidelines and Interpretation Notes are not deemed to be statutory instruments.

For the purposes of this Guideline, these Acts are referred to collectively as the *Accord Acts*. Any references to the C-NLAAIA, the CNSOPRAIA or to the regulations in this Guideline are to the federal versions of the *Accord Acts* and the associated regulations.

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## 1.0 Acronyms and Abbreviations

<b>C-NLAAIA<sup>1</sup></b>	<i>Canada-Newfoundland and Labrador Atlantic Accord Implementation Act</i>
<b>C-NLOPB</b>	Canada-Newfoundland and Labrador Offshore Petroleum Board
<b>CNSOPB</b>	Canada-Nova Scotia Offshore Petroleum Board
<b>CNSOPRAIA<sup>2</sup></b>	<i>Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act</i>
<b>RAP</b>	Regulatory Activity Plan

## 2.0 Definitions

In this Guideline, the terms such as “authorization” and “operator” referenced herein have the same meaning as in the *Accord Acts*.<sup>3</sup>

In this Guideline, the terms such as “actual full cost”, “base units of time”, “daily access rate”, “direct regulatory activities”, “effective rate”, “heavy burden coefficient”, “indirect regulatory costs”, “project” and “variable units of time” referenced herein have the same meaning as in the *Cost Recovery Regulations*.

For this Guideline, the following definitions have been capitalized and italicized throughout. The following definitions apply:

<b><i>Accord Acts</i></b>	means the <i>Canada-Newfoundland Atlantic Accord Implementation Act, Canada-Newfoundland and Labrador Atlantic Accord Implementation (Newfoundland and Labrador) Act, Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act</i>
<b><i>Cost Recovery Regulations</i></b>	means the <i>Canada-Newfoundland and Labrador Offshore Petroleum Cost Recovery Regulations, SOR/2016-21 and the Canada-Nova Scotia Offshore Petroleum Cost Recovery Regulations, SOR/2016-22</i>
<b><i>Project Description or Letter of Intent</i></b>	means a document submitted to the <i>Regulator</i> to describe a project relating to development, production, abandonment, exploratory drilling or multi-year or complex seismic programs. This document should provide a project overview and include:

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<sup>1</sup> References to the C-NLAAIA in this Guideline are to the federal version of the *Accord Acts*

<sup>2</sup> References to the CNSOPRAIA in this Guideline are to the federal version of the *Accord Acts*

<sup>3</sup> C-NLAAIA 2, 135; CNSOPRAIA 2, 138

	<ul style="list-style-type: none"> <li>• information on all vessels, installations and other major equipment to be used;</li> <li>• information such as the type(s) of authorizations and approvals being submitted or may be submitted to the <i>Regulator</i>;</li> <li>• details about the duration of the project with a schedule of key dates; and</li> <li>• a map of the location of the project.</li> </ul>
<b>Regulator</b>	means the Canada-Newfoundland and Labrador Offshore Petroleum Board or the Canada-Nova Scotia Offshore Petroleum Board, as the case may be

### 3.0 Purpose and Scope

The purpose of this Guideline is to provide clarity to operators and others with statutory responsibilities on the cost recovery process used by the *Regulator*.

### 4.0 Estimated Annual RAP Charge

With respect to section 2 of the *Cost Recovery Regulations*:

- Any applicant or operator for development, production, abandonment, exploratory drilling, or multi-year or complex seismic programs should submit a *Project Description or Letter of Intent* to the *Regulator* as early as possible.
- To determine if a proposed seismic program would be deemed complex, please contact the *Regulator*. When making a determination, the *Regulator* will consider factors such as the size of the program, the number of vessels, the duration, location, type of program, required environmental mitigation measures, etc.
- With respect to subsection 2(b) of the *Cost Recovery Regulations*, the formula to use for the RAP Charge is:

$$\text{RAP Charge} = (\text{estimated units of time} \times \text{effective rate}) + \text{any additional project costs}$$

- With respect to paragraph 2(b)(ii) of the *Cost Recovery Regulations*, an example of any other cost would include the use of a third party external expert for technical review, advice or auditing services, etc. If there are other costs the *Regulator* will notify the applicant or operator in writing with information and an estimate of the costs. These costs will be recovered from the applicant or operator with the annual charge adjustment as described in section 6 of the *Cost Recovery Regulations*.
- For each new project related to development, production, abandonment, exploratory drilling, or multi-year or complex seismic programs, the *Regulator* will notify each applicant or operator in writing of the RAP and the estimated annual charge payable no later than 30 days after receipt of a *Project Description or Letter of Intent* in a format satisfactory to the *Regulator*.

## 5.0 Existing Projects

With respect to section 3 of the *Cost Recovery Regulations*:

- For existing projects, the *Regulator* will notify each applicant or operator, in writing, of the new RAP and the estimated annual charge payable no later than July 15 of each year.
- With respect to subsection 2(b) of the *Cost Recovery Regulations*, the formula to use for the RAP Charge is:

RAP Charge = (estimated units of time x effective rate) + any additional project costs

- If there are other costs as noted in paragraph 3(b)(ii) of the *Cost Recovery Regulations*, the *Regulator* will notify the applicant or operator in writing with information and an estimate of the costs. These costs will be recovered from the applicant or operator with the annual charge adjustment as described in section 6 of the *Cost Recovery Regulations*.

## 6.0 Recalculation

With respect to section 4 of the *Cost Recovery Regulations*, if the applicant or operator changes its project and if the changes are not addressed in the original *Project Description* or *Letter of Intent*, the applicant or operator must revise and submit the *Project Description* or *Letter of Intent* that was submitted as per section 2 of the *Cost Recovery Regulations*. At its discretion, the *Regulator* will assess the revisions and determine if a recalculation of the estimated RAP annual charge is required. The *Regulator* will notify each applicant or operator in writing of the revised RAP and the estimated annual charge payable no later than 30 days after receipt of a revised *Project Description* or *Letter of Intent* in a format satisfactory to the *Regulator*.

## 7.0 Quarterly Invoicing

With respect to section 5 of the *Cost Recovery Regulations*:

- Applicants or operators may remit their fee payment electronically or by cheque in Canadian funds to the *Regulator*.
- Payments received after the due date will be charged interest as per section 14 of the *Cost Recovery Regulations*.
- Payment instructions for each *Regulator* are found in Appendix 1.

## 8.0 Annual Charge Adjustment

With respect to section 6 of the *Cost Recovery Regulations*:

- As per the *Accord Acts*<sup>4</sup>, the *Regulator* cannot recover more than the costs of providing services or products.
- The *Regulator* will adjust RAP charges in circumstances where the *Regulator* requires an increase to its budget and has submitted a revised budget request to the federal and the respective provincial governments and received approval.
- At the end of the fiscal year (i.e., March 31), the *Regulator* will calculate its actual full cost. In practice, this means that the *Regulator*, following the completion of the *Regulator's* audited financial statements, will determine the actual full cost by recalculating its effective rate if additional budget requests were made and approved throughout the year. This new effective rate will be applied to the estimated units of time determined for each project at the beginning of the fiscal year to determine a revised RAP charge. The difference between the estimated full cost and the actual full cost will be charged or credited to the applicant or operator.
- Any additional costs directly related to a project but not included in the RAP estimated annual charge described in sections 2 and 3 of the *Cost Recovery Regulations*, excluding costs considered under other costs recovery methods, will be charged to the applicant or operator.
- Applicants and operators will be notified in writing of any changes to their RAP charge. Any additional charges will be invoiced and any credit will be applied on the applicant's or operator's next invoice.
- Payments received after the due date will be charged interest as per section 14 of the *Cost Recovery Regulations*.

## 9.0 Formula Fees

With respect to section 7 of the *Cost Recovery Regulations*:

- The structure for formula fees sets fees on a standard basis across each regulatory activity. The generic structure of the formula fees uses a series of components that are multiplied to calculate an applicable fee.
- The *Cost Recovery Regulations* establish that the *Regulator* may calculate a heavy burden coefficient and apply it to projects on a case by case basis. The applicant or operator will be notified in writing when the *Regulator* implements this coefficient, together with reasons for its application. If the heavy burden coefficient is required, it will be used as a multiplier for the formula fee. An invoice will be sent to the applicant or operator with the revised formula fee amount. Payments received after the due date will be charged interest as per section 14 of the *Cost Recovery Regulations*.
- The *Regulator* will only use a heavy burden coefficient in exceptional circumstances, such as when a proponent is exercising lack of effort or failing to comply with regulatory requirements, resulting in *Regulator* costs above those normally required to administer a similar type of project.

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<sup>4</sup> C-NLAAIA 29.1(2); CNSOPRAIA 30.1(2)



## 10.0 Publication

With respect to section 8 of the *Cost Recovery Regulations*:

- On an annual basis, upon confirmation of the *Regulator's* budget for the fiscal year by the federal and respective provincial governments, the *Regulator* will publish the base units of time, the variable units of time for each activity set out in the tables to section 9, and the effective rate on its website.
- When calculating the respective cost recovery fee, the *Regulator* will apply the base units of time, variable units of time and effective rate that is published on the respective *Regulator's* website at the time of application.

## 11.0 Payment of Fees

With respect to section 10 of the *Cost Recovery Regulations*:

- When an applicant or operator submits an application related to a specific regulatory activity for which a formula fee applies, the applicant or operator must submit its payment for the respective formula fee charge with its application to the *Regulator*.
- The *Regulator* will not be able to complete its review of the application until the applicant or operator has paid the required formula fee charge in full.
- If the heavy burden coefficient is applied to a formula fee, the *Regulator* will send an invoice to the applicant or operator with the revised formula fee amount. Payments received after the due date will be charged interest as per section 14 of the *Cost Recovery Regulations*.

## 12.0 Geodata Centre

With respect to sections 11 and 12 of the *Cost Recovery Regulations*:

- The geodata centre for the C-NLOPB is the Core Storage and Research Centre and the geodata centre for the CNSOPB is the Geoscience Research Centre.
- The daily access rate will be based on costs associated with the time required by the *Regulator* to prepare physical samples for viewing or to complete other related requests. The daily access rate does not capture access to digital geoscience data, which will remain available at no additional cost.
- On an annual basis, upon confirmation of the *Regulator's* budget for the fiscal year by the federal and respective provincial governments, the *Regulator* will publish the daily access rate on its website.
- Applicants or operators should remit their respective daily access rate fee prior to using the *Regulator's* geodata centre. Payment instructions for each *Regulator* are found in Appendix 1.
- The *Regulator* may require proof that access to the geodata centre is for an academic reason or is on behalf of the federal or the provincial minister. The form of proof could be an employee or a student identification card, a letter of permission, or a project scope document. Failure to provide proof acceptable to the *Regulator* will result in the daily geodata centre access rate fee being applied as a condition of access.

### 13.0 Other Charges

With respect to section 13 of the *Cost Recovery Regulations*:

- It is recommended that an applicant or operator send a letter to the *Regulator* requesting a specific activity noted in section 13 of the *Cost Recovery Regulations*. This letter should include an overview of the activity and a schedule of key milestones. The *Regulator* will notify each applicant or operator, in writing, no later than thirty (30) days after receipt of this letter. These costs will be billed directly to the applicant or operator for which they apply.
- If applicable, the *Regulator's* response may include:
  - a cost estimate (if known);
  - any relevant information about the *Regulator's* travel policies (if applicable); and
  - information about when the actual costs will be invoiced and recovered.
- Where possible, the *Regulator* will communicate with the applicant or the operator if the actual costs significantly differ from the estimated costs, if provided.
- All invoices for other charges must be paid no later than thirty (30) days after date of the invoice. If the applicant or operator does not remit payment in the proper form by the required date, interest will be charged as stated in section 14 of the *Cost Recovery Regulations*.
- The *Regulator's* practices for cost recovering 100% of its costs for activities are listed in section 13 of the *Cost Recovery Regulations*. Clarification is provided for each subsection:
  - (a) – The applicant or operator will be invoiced after the travel is completed. *Regulator* staff must travel per the travel policy of the respective *Regulator*.
  - (b) – If Oil and Gas Committee work related to an authorization or application is prolonged and costs are substantial, the applicant or operator will be invoiced after the work is completed or will be billed during the process. The Oil and Gas Committee must travel per the travel policy of the respective *Regulator*.
  - (c) – The applicant or operator will be invoiced after the technical analysis or process review is completed or it will be billed during the process if the technical analysis or process review is prolonged and costs are substantial.
  - (d) – The applicant or operator will be invoiced after the public review, hearing or inquiry is completed or it will be billed during the process if the public review, hearing or inquiry is prolonged and costs are substantial. Any travel must be per the travel policy of the respective *Regulator*.
  - (e) – The applicant or operator will be invoiced after the proponent is reimbursed for approved expenses as per its contribution agreement or it will be billed during the process if that process is prolonged and costs are substantial.
  - (f) – The applicant or operator will be invoiced after the work is completed or it will be billed during the process if that process is prolonged and costs are substantial.

#### **14.0 Interest**

With respect to section 14 of the *Cost Recovery Regulations*:

- If the applicant or operator does not remit payment in the proper form by the required date, interest will be charged as stated in section 14 of the *Cost Recovery Regulations*.
- For outstanding invoices related to RAP or to formula fees, the related authorization may be suspended or revoked due to non-payment.

#### **15.0 Remittance of Fees and Charges**

With respect to section 15 of the *Cost Recovery Regulations*:

- The C-NLOPB will remit cost recovery fees in equal proportions to the Receiver General for Canada and to the Newfoundland Exchequer Account.
- The CNSOPB will remit cost recovery fees in equal proportions to the Receiver General for Canada and to the Nova Scotia Minister of Finance.
- Amounts representing recovery of unbudgeted, out-of-pocket expenses of the *Regulator* are not remitted to Governments, but are retained by the *Regulator* to offset the unanticipated and unbudgeted expenses.

## **16.0 Appendix 1 – Regulator Payment Information**

### **C-NLOPB:**

Cheques should be made payable to the Canada-Newfoundland and Labrador Offshore Petroleum Board and mailed to:

C-NLOPB  
240 Waterford Bridge Road, Suite 7100  
The Tower Corporate Campus – West Campus Hall  
St. John's NL A1E 1E2

The invoice or statement remittance stub should be enclosed with your payment.

If an Operator would like to submit an electronic payment, please contact the C-NLOPB at [information@cnlopb.ca](mailto:information@cnlopb.ca) for instructions and banking information.

### **CNSOPB:**

Cheques should be made payable to the Canada-Nova Scotia Offshore Petroleum Board, and mailed to:

CNSOPB  
201 Brownlow Avenue, Suite 27  
Dartmouth NS B3B 1W2

The invoice or statement remittance stub should be enclosed with your payment.

If an Operator would like to submit an electronic payment, please contact the CNSOPB at [finance@cnsopb.ns.ca](mailto:finance@cnsopb.ns.ca) for instructions and banking information.