



# Fisheries Compensation Plan

## Newfoundland & Labrador Orphan Basin Exploration Drilling Program

November 2022

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## 1 Foreword

This is the first issue of the Newfoundland Orphan Basin Exploration Drilling Project: Fisheries Compensation Plan.

This document supports BP Policy/BP Practice/BP Procedure.

## 2 Introduction

The Fisheries Compensation Plan (the Operator Plan) is developed to provide fair and timely compensation to commercial fish harvesters and processors, and commercial fisheries entities including Indigenous fishers (Fishers), who sustain actual loss because of damage to fishing gear or vessels or due to oil spills, (as defined below), caused by BP Canada Energy Group ULC (“bp”) including its contractors, during their exploration drilling program (the Project).

The Operator Plan has been developed by the Operator (bp) to provide fishers with an opportunity to work directly with the Operator first, before making a claim to the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), including the compensation committee, pursuant to the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act (Accord Act) and its Regulations, or to the courts.

The goal of the operator is to leave the affected fishers in a no worse or better off position than before a loss occurred. This document has been developed as a guide to resolve claims in an efficient and timely manner, in consideration of relevant best practices, precedents and industry guidelines, and in accordance with the C-NLOPB’s Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activities (2017) (the Compensation Guidelines) and the Canadian Association of Petroleum Producers (CAPP) Canadian East Coast Offshore Operators Non-Attributable Fisheries Damage Compensation Program (2007).

### 3 Making a Claim

- 3.1 Claims for Loss** Claims for loss can be made under the laws of Canada, however it is generally preferable to use the process outlined in the Operator Plan as a simpler, more time and cost-effective process for obtaining appropriate compensation. The C-NLOPB Guidelines that may also be applied can be found [here](#). Note that these guidelines form the basis of this Operator Plan. As such, Fisheries participants who use the program described in the Operator Plan do so voluntarily. If this process is not successful, then the C-NLOPB process may be pursued as another recourse.
- 3.2 Timing** The compensation plan will operate for the life of the Project, which includes drilling and abandonment. Claims can continue to be initiated under the Operator Plan, subject to the period set out in the relevant portions of the Atlantic Accord Act (Section 162(5)).
- 3.3 Information Required** The compensation plan applies to actual losses that might occur to harvesters and processors from damage to fishing gear and vessels because of interaction with project vessels/debris outside the safety zone, or from oil spills originating within the safety zone.
- 3.4 Loss Classification** Actual losses or damage may include loss of income, including future income, and, with respect, to any Indigenous people of Canada, includes loss of hunting, fishing, and gathering opportunities (Accord Act, Section 162(1)). Loss may occur as a result of debris or spills.

Debris:

- Any installation of structure that was put in place in the course of any work or activity required to be authorized under paragraph 138(1)(b) of Accord Act that has been abandoned without such authorization as may be required by or pursuant to this Part, or any material that has broken away or been jettisoned or displaced in the course of any such work or activity (Accord Act, Section 160(3)).

Spills:

- A discharge, emission or escape of petroleum, other than one that is authorized under the regulations or another federal law or that constitutes a discharge from a vessel to which Part 8 or 9 of the Canada Shipping Act, 2001, applies or a ship to which Part 6 of the Marine Liability Act applies (Accord Act, Section 160(1)).

- 3.5 Proof of Occurrence** Before a claim can be made, the applicable authority should establish proof of occurrence – the following is from Section 2.0 of the C-NLOPB guidelines dated November 2017:

*One of the first steps in the compensation and recovery process is to establish the value of the Actual Loss or Damage that has occurred, and*

*any costs and/or expenses incurred as a result of any action taken in response to a Spill or Debris. The Claimant has a responsibility to provide evidence to the satisfaction of the respective Board of the claimed expenditure or loss. Further information and evidence may be requested during the claim assessment process. The assessment may therefore take an iterative form between the Claimant and those responsible for settling the claim, until a settlement has been agreed upon by all parties.*

*For all claims, a minimum set of supporting information is required, including:*

- *The name, address and contact details of the Claimant;*
- *Details of the Spill or Debris against which the claim is being made, including time, date and geographic location, and the Operator, if known; and*
- *The type of claim being submitted, the amount claimed, an explanation of how the costs or losses were incurred, and the dates of the period of the claim.*

A Claimant must demonstrate that they have incurred Actual Loss or Damage as a result of a Spill or Debris as well as the monetary value of the loss or damage.

The value can be established by identifying the cost (e.g., receipts, estimates/quotes) to repair or replace lost / damaged property or gear, the cost to clean gear and vessels, loss of income including future income (e.g., based on quota allocations, past effort or income), and lost wages for vessel crew members and plant workers.

The Claimant must establish that the Actual Loss or Damage they have is attributable to the Operator. Claimants may contact the respective Board or the Canadian Association of Petroleum Producers (CAPP) for assistance with identifying the responsible Operator or activity.

The compensation plan does not apply to items or events such as:

- Claims related to losses as a result of a fishing vessel being within the Project's approved Safety Zone;
- Claims against the Operator already initiated under another process (such as through the Courts, C-NLOPB, or CAPP), unless agreed by both the Operator and the Claimant, or unless a claim through the CAPP Non-Attributable Damage Program declares the Operator at fault
- Oil Spills associated with tankers.

Damage that cannot be shown to have been caused by the Project may be claimable under the CAPP Non-Attributable Damage Program, or its successor programs.

**3.6 Eligibility** Holders of valid and relevant licences are the only people who may make a claim; they must be duly licensed and/or registered commercial fish harvesters, fish processors, or aqua-culturalists.

The claimant may wish to pursue compensation through other avenues if they are deemed ineligible for this plan. The compensation plan covers claims for actual loss resulting from damage to fishing gear or vessels, or an oil spill as described in Section 2 of the C-NLOPB guidelines.

**3.7 Other Avenues** If claimants wish to pursue other avenues, they are outlined in the C-NLOPB guidelines in

- Section 4.2 – Compensation through the Boards,
- Section 4.3 – Compensation through Court Action, and,
- Section 5.0 – Other Compensation Sources. SPOC (Single Point of Contact) – Equinor will be using a SPOC for the duration of the drilling program. Claim information – please refer to the C-NLOPB guidelines, a modified claim form is included in Appendix A.

**3.8 Claim submissions** Complete claims satisfying the criteria outlined above should be made using the compensation claim form (Appendix A) and submitted to [rosanne.williams@bp.com](mailto:rosanne.williams@bp.com).

## 4 References

1. [Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity. C-NLOPB, November 2017.](#)
2. [Canadian Association of Petroleum Producers Non-Attributable Damage Program](#)
3. Canada-Newfoundland and Labrador Atlantic [Accord Implementation Act \(S.C. 1987, c.3\), Section 160](#)
4. Canada-Newfoundland and Labrador Atlantic Accord Implementation Act (S.C. 1987, c.3), Section 162

## 5 Appendix A: Compensation Claim Form

Compensation Claim Form		
Date		
1. Name of Claimant		
2. Occupation		
3. Address & Contact Information		
Telephone	Home:	Cell:
Email		
4. Relationship to property lost or damaged:		
5. Details of incident and damage sustained (attach details if required)		
6. Location, date and approximate time of incident		
7. Damage or loss attributed to:		
8. Supporting information (attach details if required)		
9. Description of property lost or damaged (attach details if required)		
10. Nature of income loss (if applicable)		
11. Other sources of compensation:	Yes	No
If yes		
Name of Source:		
Amount Received:		
12. Amount of Claim:		
13. Declaration		
I, _____ of _____:		
In the province of _____ do solemnly declare that I conscientiously believe that the information given above is true.		
Date:		
Signature:		
Signature witnessed:		