

Joint Letter: Strengthening Bill C-49 to Ensure Regulatory Best Practices

Honourable Jonathan Wilkinson, PC, MP
Minister of Energy and Natural Resources
Government of Canada

Cc: Honourable Steven Guilbeault, Minister of Environment and Climate Change Canada, PC, MP
Honourable Andrew Parsons, Q.C., Minister of Industry, Energy and Technology
Honourable Tory Rushton, Minister of Natural Resources and Renewables, Nova Scotia
Shannon Stubbs, MP, Natural Resources Critic, Conservative Party
Mario Simard, Député, Porte-Parole, Ressources naturelles et D'Énergie
Charlie Angus MP, Natural Resources Critic, NDP
Elizabeth May, MP, Green Party of Canada

Date: 5 June, 2024

Strengthening Bill C-49

Dear Minister Wilkinson;

On May 30, 2023, you introduced Bill C-49 to update and expand the Accord Acts in order for Canada and the provinces of Newfoundland and Labrador and Nova Scotia to develop offshore renewable energy resources in their jointly-managed waters. This is another welcome step in the development of offshore wind in Atlantic Canada.

As you know, Atlantic Canada has some of the best offshore wind in the world and an extensive continental shelf, providing real potential for successful offshore wind development. The scale and duration of this development could be considerable. As outlined in a recent policy options paper,¹ Atlantic Canada's offshore wind resource could play a major role in decarbonisation.

Given the size, duration, and value of this opportunity, it is important to get it right at the outset. The governance structure for offshore renewable energy development will determine how the offshore wind industry is regulated in Atlantic Canada, how impacts on the environment are assessed and minimized, and how the wind industry interacts with other ocean users, in particular the fishery. Getting it right can facilitate positive relations with other ocean users, build public acceptance, and provide greater regulatory certainty for the industry.

¹ Peter Nicholson, Catching the Wind. How Atlantic Canada Can Become an Energy Superpower (Ottawa: [Public Policy Forum](#), 2023.)

For these reasons, the signatories to this letter are aligned in asking you to support two key amendments to Bill C-49.

1. Amend Bill C-49 to only allow Calls for Bids for areas that have been recommended through a regional assessment or a strategic environmental assessment that has studied the impacts of introducing offshore renewable energy development.
2. Amend Bill C-49 to require project-specific environmental assessments by the Offshore Energy Regulators when impact assessments under the *Impact Assessment Act* are not required.

These changes would ensure that the results of any consultative and scientific processes are followed and other ocean users would not be blindsided during the Call for Bids process.

As well, the amendments are consistent with regulatory best practices demonstrated by other jurisdictions where wind development is already well established. Such improvements would not need to lengthen the approval processes for proposed offshore wind developments.

We realize that your government and the respective governments of Newfoundland and Labrador and Nova Scotia have worked hard to come up with the current language in Bill C-49 and you may be reluctant to make further changes. However, the long-term benefits of these changes to the more harmonious development of offshore wind and building social licence will outweigh any short-term disruption.

We the undersigned encourage you to work with the respective governments of Newfoundland and Labrador and Nova Scotia to make these amendments as expeditiously as possible.

Sincerely,

Conservation Council of New Brunswick
David Suzuki Foundation
East Coast Environmental Law
Ecojustice
Ecology Action Centre
Environmental Defense
West Coast Environmental Law



East Coast
Environmental Law



Ecology Action Centre



**environmental
defence**



WEST COAST
Environmental Law



**DAVID SUZUKI
FOUNDATION**
One nature.



Conservation Council of New Brunswick
Conseil de conservation *du* Nouveau-Brunswick

ecojustice

Re: Submission to the Standing Senate Committee on Energy, the Environment and Natural Resources Regarding 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

Monday, June 17, 2024

The Ecology Action Centre (EAC) is a member-based environmental charity located in Halifax, Nova Scotia. Since 1971, we've taken leadership on critical environmental issues, from biodiversity protection to climate change to environmental justice. For decades, the EAC's Energy Team has called attention to climate change and carbon emissions, fighting to transition Nova Scotia's grid away from dependence of coal power and towards renewable energy. Our Marine Team has advocated for the protection of marine ecosystems, resilient fisheries, and sustainable coastal livelihoods for more than 30 years.

In Atlantic Canada-Mi'kma'ki, the effects of climate change are causing rapid shifts to ecosystems on land and at sea. On the water, these shifts are already impacting vital food sources and the ocean-based livelihoods that our coastal communities depend on. Fish and lobster are relocating to new areas, altering traditional fishing grounds. Changes in whale migration routes are leading to increased interactions with fisheries and shipping. More intense storms are damaging infrastructure and risking the safety of folks on the coast. These challenges and many others are the result of the continued use of fossil fuels, including in Nova Scotia. A sustainable future for coastal communities in our province calls for an immediate transition towards renewable energy sources.

To that end, EAC has expressed conditional support for offshore wind power generation. The development of wind energy in Nova Scotia will be crucial to our ability to transition our grid away from coal-fired electricity. Polling indicates that 85% of Nova Scotians believe that priority should be placed on moving away from fossil fuels and towards renewable energy and efficiency systems. As such, we are generally supportive of the necessary amendments that Bill C-49 brings to the Accord Acts.

However, we must tread with care. If offshore wind power projects are built in the wrong places or without the inclusion of nearby coastal communities, they could perpetuate the harmful industrial practices primarily responsible for the climate and biodiversity crises we face today. Considering the importance of a renewable energy transition in solving these crises, we must minimize ecological damage while ensuring a just approach that will benefit communities affected by offshore renewable decisions. We cannot repeat historical patterns of energy development profiting large corporations at the expense of localized ecosystems and community well-being.

In our view, these considerations are essential to developing the federal-provincial legal framework now in front of us. As offshore energy projects are proposed for Atlantic Canadian waters, regulators must be empowered to prioritize:

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- the protection of Indigenous Rights;
 - the protection of marine ecosystems;
 - enhanced public participation and opportunities for participatory research;
 - commitments to engaging local fisheries knowledge;
 - safeguards for existing coastal livelihoods;
 - meaningful benefit for local communities; and
 - a greener regional grid to benefit Atlantic Canadians.

Through Bill C-49, we are pleased to see proposed changes to existing legislation that will allow for the prohibition of offshore energy developments (both oil and gas and renewables) in marine conservation areas, as well as the ability for the Federal and Provincial ministers to jointly cancel existing oil and gas interests in conservation areas. This power is critical for Canada to meet international commitments to protect 30% of our ocean by 2030 and to ensure that marine protection is of high quality. We endorse the brief by our colleagues at SeaBlue Canada and the recommendations they have provided regarding marine protection related amendments.

We are also pleased to see provisions in support of increased public hearing options for the Boards. Further, we would like to see the Boards clearly empowered to conduct comprehensive and independent regional assessments (RAs) and strategic environmental assessments (SEAs), including social, economic, and cumulative impact analysis. This includes codifying and extending the current SEA and environmental assessment (EA) practices where appropriate and ensuring assessments are conducted where information gaps exist. Reasonable timelines, clear ecological and social criteria for approvals, and accessible mechanisms for supportive participatory funding should be identified and established.

Additionally, all offshore renewable energy projects should undergo a project-specific evaluation, either through a federal impact assessment or an EA process conducted independently by the regulators. This dual-layered evaluation ensures rigorous scrutiny, multiple participatory opportunities, and adherence to strong environmental standards for each proposal. In our view, renewable bid calls and energy development should only occur in areas where RAs or SEAs have been previously conducted. This streamlines data collection processes for project level EAs and safeguards against uninformed decisions. We endorse the statement of our colleagues at East Coast Environmental Law specific to amendments on process, assessment, and public participation within the Bill.

Jurisdictional research further reveals international best practices in marine spatial planning that could be replicated in the Canadian context in support of sustainable and low-conflict offshore energy development.¹ These practices include:

¹ East Coast Environmental Law (ECEL). "Comparative Jurisdictional Research Report on the Assessment and Regulation of Offshore Wind Development". March 2023.

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- Establishing marine policies or strategies, maritime spatial plans, and/or sectoral marine plans to identify and reconcile competing human and ecological demands in marine spaces before considering site-specific developments.
 - Tiered assessment processes that evaluate sustainability considerations and cumulative effects at the highest regulatory planning and decision-making levels. This ensures that project-specific assessments are informed by and contextualized within a broader context.
 - The use of centralized site identification so that marine spaces opened to development are chosen not only for their economic potential, but also for their conformity with sustainable development objectives and related criteria to justify approvals on ecological and social grounds.

In summary, we affirm our support for the passing of Bill C-49 in a timely manner. The Bill is essential to establish a regulatory framework for sustainable offshore wind development in Atlantic Canada, and to lay a foundation towards a just renewable energy transition for the region. Current amendments related to the protection of the marine environment are a necessity for the continued advancement of high quality marine conservation efforts in Canada. We urge further consideration for comprehensive environmental assessments and strategic planning. These processes must emphasize Rightsholder and stakeholder engagement, ecological safeguards, the preservation of existing livelihoods, benefit to local communities, and clear and transparent criteria to guide decision-making.

We thank the Committee for the opportunity to share our views, and we welcome any further questions that Committee members may have.

About the Ecology Action Centre: Based in Halifax, Nova Scotia, the EAC is Atlantic Canada's oldest and largest member-based environmental charity. The EAC acts as watchdog, convener, mobilizer and incubator. We engage community to overcome urgent, complex environmental issues.