

Federal Authority Advice Record (FAAR)

The FAAR must be submitted to the Registry by December 20, 2023.

Cooper Cove Marine Terminal Expansion Project – Port of Argentia

Registry reference no.: 86128

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| Department/Agency | Environment and Climate Change Canada (ECCC) |
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1. a) Is it probable that your department or agency may be required to exercise a power or perform a duty or function related to the Project to enable it to proceed? Yes

If yes, specify the Act of Parliament and that power, duty or function.

Please note the following requirements that may apply to this project:

Species at Risk Act permits

For species listed in Schedule 1 of the *Species at Risk Act* (SARA) 2002 as Extirpated, Endangered or Threatened, a permit may be required from ECCC (section 73 of SARA) for activities that affect a listed terrestrial wildlife species, any part of its critical habitat, or the residences of its individuals, where those prohibitions are in place. Such permits may only be issued: if all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted; all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals; and if the activity will not jeopardize the survival or recovery of the species. Permits are also required by those persons conducting activities that contravene the critical habitat destruction prohibitions (subsection 58(1)).

Prohibitions are in place for individuals and residences on federal lands and waters in a province, reserve or any other lands under the *Indian Act*, or lands under the authority of the Minister of the Environment, and for birds listed under the *Migratory Birds Convention Act* (MBCA) 1994 wherever they occur regardless of land tenure.

Furthermore, prohibitions may be in force on land other than federal land pursuant to other orders or regulations under SARA. It is possible that further prohibitions may come into force in the future through orders in Council for individuals, residences and critical habitat on non-federal lands and / or through ministerial order for critical habitat on federal lands. It is also possible that, over the course of the assessment or after the assessment and during the lifetime of the Project, additional species could be listed under SARA; permits may be required for project activities that affect these additional species. Proponents are advised to monitor for such developments on the SARA Registry <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>.

Examples of activities that could require a *Species at Risk Act* permit include: [actual list can be tailored to better reflect project details]:

- Species surveys that would affect individuals or residences;
- Site preparation (clearing, grubbing, site access, staging, blasting);
- Construction and operation of temporary and permanent works and infrastructure;
- Creation of new roads, rail lines, or power lines;
- Infilling of wetlands or watercourses;
- Any monitoring that requires capture/release of individuals; and
- Sensory disturbance effects (artificial lighting, noise, vibration, human activity, vehicular traffic).

ECCC will require detailed information on the potential effects of the project, including locations and/or occurrences of species at risk, their use of habitat and critical habitat within the project area, and specific effects on federal land, before ECCC can determine whether a SARA permit is required.

Links to publicly available documents:

- Guidelines for permitting under Section 73 of *Species at Risk Act* <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/policies-guidelines/permitting-under-section-73.html>

- Species at Risk Permitting Policy <https://species-registry.canada.ca/index-en.html#/consultations/2983>

In the event that a SARA permit is required, ECCC would evaluate and determine consultation requirements, if any.

ECCC-led Indigenous consultations related to the issuance of SARA permits will be coordinated with consultation during the impact assessment where possible.

If a permit is issued, the description of the activity and how SARA's preconditions were met will be posted on the SARA Registry here: <https://species-registry.canada.ca/index-en.html#/permits>.

Migratory Birds Convention Act permits

The *Migratory Birds Regulations, 2022* (MBR 2022) protect migratory birds, their eggs and their nests, by prohibiting activities that may harm them. Unless a person has a permit or the regulations authorize it, it is prohibited to engage in the following activities:

- Capturing, killing, taking, injuring or harassing a migratory bird or attempting to do so;
- Destroying, taking or disturbing an egg; and
- Damaging, destroying, removing or disturbing a nest, nest shelter, eider duck shelter or duck nesting box, unless the following exceptions apply:
 - o The nest does not contain a live migratory bird or a viable egg; and,
 - o The nest was not built by a species listed in Schedule 1.

Modernization of the MBCA in 2022 has additionally identified 18 species of birds whose nests are protected year round (Schedule 1 of MBR 2022). The nests of species listed in Schedule 1 are protected at all times, unless the following conditions are met:

- Notification of the unoccupied nest has been submitted/received through the Registry for Abandoned Nests; and,
- The waiting time designated in the regulations has passed, during which time the nest has not been occupied by a migratory bird.

In some situations, it may be possible to obtain a permit to move or destroy an unoccupied nest of a Schedule 1 MBR 2022 species. For more information, please visit:

<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds.html>

Disposal at Sea permits, as per Part 7, Division 3 of the Canadian Environmental Protection Act, 1999 (CEPA 1999)

“Disposal” is defined in Part 7, Division 3 of the *Canadian Environmental Protection Act, 1999* (CEPA 1999) to include any disposal activity that takes place from a ship, aircraft, platform, or other structure into the marine or estuarine environment, including the storage of material on or below the seabed. More broadly, it includes the disposal of dredged material from any source. Disposal at sea is prohibited without a permit issued by ECCC under CEPA 1999, which is valid for a maximum of a one-year period. Permits can only be issued for substances listed in Schedule 5 of CEPA 1999. Material proposed for disposal at sea must undergo a detailed waste assessment and characterization process in accordance with Schedule 6 of CEPA 1999. This includes the requirement for an alternatives assessment to examine alternative waste management options in accordance with environmental, human health, and economic considerations. Disposal at Sea permits will only be considered for material that both meets characterization criteria and where disposal at sea is demonstrated to be the most suitable waste management option.

If Disposal at Sea permits are likely to be sought, the proponent is strongly encouraged to discuss this with ECCC as soon as possible. Plans for a detailed sediment characterization program should be reviewed by ECCC prior to implementation. The proponent is strongly encouraged to apply for the Disposal at Sea permit during the impact assessment process, providing they have all the necessary information for a complete permit application.

Upon receipt of a complete Disposal at Sea permit application, ECCC will circulate the permit application and associated information to other relevant government departments for review. ECCC has a legal duty to consult all Indigenous communities in Canada that have potential or established Aboriginal or treaty rights that overlaps with the Disposal at Sea permit request. The public is notified of a Disposal at Sea permit application through a Notice of Intent that must be published by the applicant in a locally circulated newspaper. The Notice provides contact information through which the public can seek additional information or provide comment. The permit is also posted publicly on the CEPA Registry for a 7-day period prior to coming into effect (<https://pollution-waste.canada.ca/environmental-protection-registry/permits>). Consultation on Disposal at Sea permits will be coordinated with consultation during the project environmental assessment where possible.

b) Please describe any Indigenous or public consultation that will be undertaken in relation to the exercise of that power, duty or function, including when it would take place.

Public and Indigenous consultations are not expected to be required to meet the *Migratory Birds Convention Act* and *Species at Risk Act* permit processes.

2. Is your department or agency in possession of specialist or expert information or knowledge in one of your fields of expertise that may be relevant to the conduct of an impact assessment of the Project? Yes

Specify the specialist or expert information or knowledge.

ECCC has specialist or expert information that may be relevant to the impact assessment in the areas listed below. In each of these subject areas we have expertise related to establishing an adequate baseline, assessing potential effects to biophysical valued components, effectiveness of mitigation measures, methods for monitoring and follow-up, as well as information regarding federal policies, standards, and regulations that may be relevant to the assessment (Note: ECCC does not assess proposed projects for regulatory compliance, but instead provides technical input to the Agency to inform the assessment). Once the scope of the project and of the assessment are established by the Agency, this list may change if additional project activities or components should come into scope.

Air quality: ambient air quality; sources of emissions; emissions estimation and measurement; atmospheric transport, transformation and dispersion modelling; and follow-up monitoring.

Greenhouse gas emissions and climate change: estimations of greenhouse gas (GHG) emissions (net and upstream); impact on carbon sinks; GHG mitigation measures and determination of Best Available Technologies/Best Environmental practices (BAT/BEP); credible plan to achieve net-zero GHG emissions by 2050; climate change science to inform evaluation of potential changes to the environment and project resilience to effects of climate change; climate change policies; and national GHG projections.

Water quality and quantity: surface water quality; contamination sources for surface water and groundwater, including effluent; wastewater; water quality predictions and modelling; seepage and runoff effects; management of contaminated soils or sediments; hydrology (streamflow rates data and modelling, flooding and extreme events management, drainage control, water levels, water balances); geochemistry; cumulative effects and follow-up and monitoring.

Wildlife, species at risk, and habitat: priority species and places as outlined in the Pan-Canadian Approach to transforming species at risk conservation in Canada;

migratory birds, their nests, eggs, and habitat under authority of the *Migratory Birds Convention Act 1994*; species assessed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC); species at risk listed on Schedule 1 of the *Species at Risk Act 2002*, individuals, their residences, habitat and critical habitat [proposed and final] including recovery strategies, action plans and management plans under ECCC's mandate; impact to ecological functions of wetlands Federal Policy on Wetland Conservation in Canada; and ecotoxicology.

Environmental emergencies: emergency management planning and guidance, including where the release of hazardous substances could affect species at risk and/or migratory birds; atmospheric transport and dispersion modelling of contaminants in air; fate and behaviour; and hydrologic trajectory modelling of contaminants in water.

Climate and meteorology: long-term climate patterns and norms; marine winds, waves, and weather; and sea ice and icebergs; severe weather.

3. Has your department or agency exercised a power or performed a duty or function under any Act of Parliament in relation to the Project; or taken any course of action that would allow the Project to proceed in whole or in part?

Please specify if applicable.

ECCC has not exercised a power or performed a duty, or taken any course of action as part of the Project.

4. Has your department or agency had previous contact or involvement with the proponent or other party in relation to the Project (for example: an enquiry about methodology, guidance, or data; introduction to the Project)? Yes

Please provide an overview of the information or advice exchanged.

ECCC is currently expecting to participate in the provincial environmental assessment process for the review of this project.

5. Does your department or agency have additional information or knowledge about the project not specified above, including information about its geographic, environmental, economic or social context (for example, location of protected or sensitive areas, history between local communities and proponent or similar projects, local or regional social or economic concerns)?

Please specify if applicable.

Appropriate guidance has already been identified above. Additional guidance pertinent to this project is as follows:

Fisheries Act Registry: Pollution Prevention Provisions

This registry provides information about the pollution prevention provisions under the Fisheries Act. These provisions apply to all waters in the fishing zones and territorial seas of Canada as well as all internal waters of Canada. They are administered and enforced by Environment and Climate Change Canada. <https://www.canada.ca/>

Migratory Birds and Species at Risk

The *Migratory Birds Convention Act* (MBCA) protects most bird species in Canada however, some families of birds are excluded. A list of species under MBCA protection can be found at:

<https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/list.html>

Information regarding regional nesting periods can be found at:

<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods.html>.

Some species protected under the MBCA may nest outside these timeframes.

The risk of impacting active nests or birds caring for pre-fledged chicks, discovered during project activities outside the regional nesting period, can be minimized by measures such as the establishment of vegetated buffer zones around nests, and minimization of activities in the immediate area until nesting is complete and chicks have naturally migrated from the area. It is incumbent on the proponent to identify the best approach, based on the circumstances, to complying with the MBCA.

Further information can be found at: <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds.html>

The complete text of SARA, including prohibitions, is available at www.sararegistry.gc.ca

Disposal at Sea

The proponent should identify any anticipated need for a Disposal at Sea permit. This should include estimates of disposal volumes, source(s) of the material, and proposed disposal location(s) that cover all phases of the project. If disposal at sea is pursued, a disposal at sea site will need to be established. It is recommended that Marine Programs be contacted for sampling and disposal site selection guidance. The timeline for the disposal at sea permit application process is 90 days upon receipt of a complete application (plus up to 14 days for required publishing on the CEPA Registry).

Further information about the Disposal at Sea permit system can be found here:

- Disposal at Sea Website (<https://www.canada.ca/en/environment-climate-change/services/disposal-at-sea.html>)
- The Disposal at Sea permit application guide (<https://www.canada.ca/en/environment-climate-change/services/disposal-at-sea/permit-applicant-guide.html>)

Environmental Emergency Regulations, 2019

The ECCC publication, Technical Guidelines for the *Environmental Emergency Regulations, 2019* is available at: <https://www.canada.ca/en/environment-climate-change/services/environmental-emergencies-program/regulations/technical-guidelines.html>.

Open Science Data Platform (OSDP)

The Open Science Data Platform (OSDP) provides information relevant to cumulative effects and development activities across Canada, and is publicly available at the following website: <https://osdp-psdo.canada.ca/dp/en>. More specifically, the platform provides a single window to access data and scientific knowledge relevant to understanding cumulative effects from existing federal, provincial, and territorial on-line databases and registries, including publications from the federal government and its scientists. It provides and interactive geospatial mapping tool to enable mapping of multiple datasets from multiple sources. It offers various features, including keyword-based searching, interactive data visualization on maps, and educational resources covering key topics such as cumulative effects, water, air, climate, biodiversity, land, economy and industry, health, and society and culture.

OSDP information may be of value to persons preparing and reviewing projects assessments, including cumulative effects assessments. The following are some examples of ECCC information available on the OSDP.

Water – quality and quantity

- [National long-term water quality monitoring data](#)
- [Real-time hydrometric data](#)
- [Canadian Aquatic Biomonitoring Network \(CABIN\)](#)
- National Pollutant Release Inventory (NPRI)
 - [Facilities that reported releases to water](#)
- Find [additional water-related resources \(including publications, datasets and monitoring stations\) from ECCC on the OSDP here.](#)

Biodiversity (e.g., birds, species at risk, wetlands)

- [Critical habitat for species at risk \(terrestrial\)](#)
- [Range map extents – Species at risk](#)
- [Canadian wetlands](#)
- [Canadian Protected and Conserved Areas Database \(CPCAD\)](#)
- [Canadian Breeding Bird Census plots](#)
- [Priority places for species at risk](#)
- Find [additional biodiversity-related resources \(including publications, datasets and monitoring stations\) from ECCC on the OSDP here.](#)

Air Quality

- National Pollutant Release Inventory (NPRI), including:
 - [Facilities that reported release of criteria air contaminants](#)
- Canadian Environmental Sustainability Indicators (CESI), including
 - [Average ambient fine particulate matter concentrations](#)
 - [Peak ambient ozone concentrations](#)
 - [Ambient volatile organic compound concentrations](#)
 - [Average ambient sulphur dioxide concentrations](#)
 - [Peak ambient nitrogen dioxide concentrations](#)
- Find [additional air-related resources \(including publications, datasets and monitoring stations\) from ECCC on the OSDP here.](#)

Climate, including climate change

- [Hourly and daily climate observations](#)
- [Monthly climate observation summaries](#)
- [Climate normals, averages and extremes 1981-2020](#)
- [Homogenized surface air temperature](#)
- [Adjusted precipitation](#)
- Find [additional climate-related resources \(including publications, datasets and monitoring stations\) from ECCC on the OSDP here.](#)

Beyond ECCC's mandate, the OSDP also contains resources on topics led by departments and other levels of government (e.g., human health, economy and industry). The OSDP also provides access to regulatory registries that list government authorizations of other developments (e.g., *Fisheries Act* Registry), which can be useful in understanding the cumulative pressures on an area.

[ECCC's Shoreline cleanup assessment technique \(SCAT\) manual](#)

The Shoreline Cleanup Assessment Technique (SCAT) is an accepted concept for the description and documentation of oiled shorelines. The field data provides systematic, science-based information that is evaluated by a spill management team as they decide on appropriate shoreline response priorities, treatment techniques and treatment completion endpoints. The process is flexible and adaptable for spill responses of different scales and in the full range of Canadian coastal environments. The manual is available at <https://publications.gc.ca/site/fra/9.855598/publication.html>

6. From the standpoint of your department's mandate and expertise, what are the main issues concerning the project?

For each key issue, please:

- describe the effect or the nature of the issue, including any relevant context;
- provide the rationale and/or evidence for why it is a key issue;
- briefly provide solutions to the issue, including information or studies that, if applicable, should be requested to the proponent in the Tailored Impact Statement Guidelines, potential mitigation measures, or regulatory requirements relevant to the issues;
- provide a concise, plain-language summary of the issue for inclusion in the Summary of Issues.

The information provided will be taken into consideration by the Agency to formulate an opinion on whether an impact assessment is required and, if applicable, will be taken into account in developing project-specific Tailored Impact Statement Guidelines in the next steps of the impact assessment process.

Please use Table 1 to answer this question.

See Attached Table 1

7. If applicable, specify any additional information the proponent could provide in the Detailed Project Description or in its response to the Summary of Issues that:
- would make it possible to verify whether certain minor issues could be addressed and managed by clear measures, existing guidelines, other regulatory processes or other existing tools;
 - help the Agency to provide an opinion if an impact assessment is required, or
 - would support the tailoring of the Impact Statement Guidelines if the Agency is of the opinion that an impact assessment is required.

These clarifications and additional information will be included as specific questions/issues in the Summary of Issues provided to the proponent.

Please use Table 2 to answer this question.

See attached Table 2

Name of department or agency involved

Environment and Climate Change Canada

Speaker title

Michael Hingston, Head, Environmental Assessment, Environmental Protection Operations
Directorate - Atlantic

Date

21 December 2023
