

**The Mineral Licence and Safety Authority's (MLSA) comments on responses received to the draft: *Mineral Licence and Safety Authority Guidelines for application, execution and reporting of offshore hydrocarbon exploration activities (excluding drilling) in Greenland (the "guidelines")***

The guidelines were last published in a revised version in 2011 and have now been subjected to another review and public consultation. The public consultation has resulted in a final revised draft of the guidelines. Together with the responses received, this final revised draft will be presented to Naalakkersuisut for approval. If Naalakkersuisut approves the final revised draft, a final version of the guidelines will be published.

**General observations made in connection with the revision of the first draft on the basis of responses received:**

*More detailed introduction*

The MLSA has added more detailed and explanatory text in the introduction, including about legislation, standards, etc. For instance, various international rules and standards have been mentioned, and references to the provisions of the Mineral Resources Act on the use of Greenlandic manpower, sections on hunting and fishing and on transparency and information on mineral resources activities have been moved to the introduction.

*Linguistic clarification*

In the revision process, the MLSA has also made a linguistic review of the language to ensure a more uniform language between the three language versions. Especially the Danish translation of the English version of the first draft had some translation errors which were unfortunate and gave rise to unnecessary misunderstandings. Moreover, a clarification of which language version prevails will be added. The guidelines are intended for international offshore companies and as the language of communication in the offshore industry is English, the MLSA proposes that the English version is to prevail.

*Clearer description of procedures*

The MLSA has made a number of clarifications in the description of procedures, including environmental approvals issued by the Environmental Agency for the Mineral Resources Area and the MLSA's approval of the activity. Both authorities form part of the Mineral Resource Authority (MRA).

### *Change of structure and specification of requirements*

The MLSA takes an active part in international cooperation on regulating the mineral resources area, e.g. in the Arctic Council. The MLSA participates in the Arctic Offshore Regulators Forum. The MLSA guidelines have been revised with inspiration from, for example, the latest report issued in 2014 by the Protection of the Arctic Marine Environment Working Group (PAME), a subdivision of the Arctic Council, on safety management systems and safety culture (*Arctic Offshore Oil and Gas Guidelines: Systems Safety Management and Safety Culture – Avoiding Major Disasters in Arctic Offshore Oil and Gas Operations*) (the “PAME Guidelines 2014”).

In addition, referring to the Mineral Resources Act, the MLSA emphasises that all activities must be carried out in compliance with acknowledged best international standards and practices. The PAME Guidelines 2014 clearly recommend that in their regulation of oil and gas activities authorities across the world move away from static regulation based on non-dynamic checklists and referring to “minimum requirements”. The guidelines are thus still consultative and do not provide long lists of how things must be done. The way things are done changes and evolves all the time, and this is taken into account in the guidelines.

In the revised draft, the MLSA has made various changes to the structure, division into sections, etc. In a few places, the wording has been clarified, but the material content has not been changed. In the individual sections, we have now highlighted the objectives which the activities must meet, followed by a specification of the requirements to the actual application for the relevant activity.

### *Corrections*

In the revised draft, references to scientific survey licences which are subject to international regulation have been deleted.

## Comments on responses received to the first draft of the guidelines

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**Nunatta Katersugaasivia Allagaateqarfialu (the Greenland National Museum), 6 August 2015**

“Re public consultation concerning the Mineral Licence Safety Authority Guidelines for application, execution and reporting of offshore hydrocarbon exploration activities (excluding drilling) in Greenland

Please find below, NKA’s response to the above consultation exercise:

Greenland Parliament Regulation No. 4 of 21 May 2004 (the Museum Regulation) provides as follows:

“Section 24a. Any ancient relics, including shipwrecks, cargo or parts of such shipwrecks, which must be assumed lost more than 100 years ago, found on the deep seabed, see subsection (2), by a Danish citizen with permanent or temporary residence in Greenland or a vessel sailing under Danish flag based in Greenland belong to the Greenland Home Rule Government, unless other countries or private individuals prove right of ownership.

(2) Deep seabed means the seabed and subsoil thereof located outside the limits of national jurisdiction.

(3) Finds under subsection (1) must be notified immediately to the Greenland National Museum.

(4) Any change in the state of underwater cultural heritage, see subsection (1), belonging to the Greenland Home Rule Government, Danish citizens with permanent or temporary residence in Greenland or legal persons domiciled in Greenland is subject to the permission of the Government of Greenland. Danish citizens with permanent or temporary residence in Greenland and legal persons domiciled in Greenland may not change or cause any changes to be made to underwater cultural heritage belonging to others without their permission.

(5) Any person who gathers up an object belonging to the Greenland Home Rule Government, see subsection (1), and any person who gains possession of such object must immediately deliver it to the Greenland National Museum. The person who has gathered up the object is not entitled to claim salvage money.

(6) The Government of Greenland may decide that ancient relics, including shipwrecks, cargo or parts of such shipwrecks, which must be assumed lost more than 100 years ago are to be subject to the provision in subsection (1).

(7) The Government of Greenland may lay down detailed rules on the situations mentioned in subsections (3)-(6).

NKA would therefore prefer it if a passage was included in the section on reporting to the effect that if the activities have revealed shipwrecks, cargo or parts of such shipwrecks, which

must be assumed lost more than 100 years ago, such finds must be reported to Nunatta Katersugaasivia Allagaateqarfialu. “

It follows from the introduction to the guidelines that offshore activities must be carried out in compliance with Greenlandic legislation in force from time to time.

Moreover, in section 9 of the guidelines, the MLSA will include a reference to said regulation, Article 149 of the United Nations Convention on the Law of the Sea, and mention that such finds must be reported to Nunatta Katersugaasivia Allagaateqarfialu (*The Greenland National Museum*).

## **The Danish Maritime Authority, 25 August 2015**

“Please find below the Danish Maritime Authority’s comments on and questions to the draft “Mineral Licence and Safety Authority Guidelines for application, execution and reporting of offshore hydrocarbon exploration activities (excluding drilling) in Greenland” put out to consultation:

In section 2.1, reference is made to the Act on Maritime Safety.

It is noted that the Act was last amended by Consolidated Act No 72 of 17 January 2014.

It is expected soon to be put into force for Greenland by royal decree.

We suggest that a reference is included in section 2.1 also to the IMO Guidelines for Ships Operating in Polar Waters.

And perhaps also that the Polar Code comes into force in 2017.

In section 3.4, as regards safe navigation, reference is made to section 4.5.

There is no section 4.5. Should probably be section 5.5.

In section 3.4, reference is made to “IMO 2010 Polar guidelines”.

Are these guidelines the same as those mentioned in section 5.6.3?

In connection with the placement of constructions as mentioned in section 4.2.6.1, it should be considered to include notification through the Notice to Mariners system in order to protect equipment etc. against any trawling etc.

Any surface marking/buoys requires permission from the Danish Maritime Authority.

Section 7 includes a description of the notification procedure in connection with activities to a number of authorities.

If the MSLA wants for offshore exploration activities etc. to be notified through the Notice to Mariners system or for markings etc. to be laid out, notice must be given well in advance to the Danish Maritime Authority [mrb@dma.dk](mailto:mrb@dma.dk).”

Re section 2.1: Will be updated.

Re section 3.4: That is correct, the reference will be corrected.

Re section 3.4: The MLSA agrees that the reference is unclear; the section will be revised.

Re section 4.2.6.1: The MLSA has taken note of the comment but will not incorporate provision on notification through the Notice to Mariners system as the target group of trawlers, fishermen, etc. will be notified directly of the activities every three days by means of the required 3-day reports.

## NUNA LAW, 26 August 2015

“

1. According to the headline (of the Danish version), the guidelines concern, among other things, “udførelse” ...af .....aktiviteter.” I assume that the correct spelling in this context is “udførelse”.
2. In section 9.3 of the Danish version of the guidelines, it is stated, among other things, that ... “kontrakt- og udbudsmateriale være i overensstemmelse med grønlandsk lovgivning og grønlandske principper i den kontraktretlige lovgivning.” In the English version it is stated that... “contracts and tender material shall apply Greenlandic law and Greenlandic principles of contract law.” I assume that the wording of the Danish version is the right one and in order to bring the English version into line with the Danish version, the translation should read: .. “contracts and tender material shall comply with Greenlandic law and Greenlandic principles of contract law.”

If the guidelines are to apply in more languages, wording should be included as to which language version prevails and I suggest that it is stated in the same way as in the hydrocarbon licences and the most recent exploitation licences on the mineral resources area that the English language version prevails.”

Re 1) The MLSA agrees to the comment.

Re 2) The MLSA agrees to the comment and notes in this connection that there will be a thorough revision of the Danish language version.

Re 3) The MLSA agrees to the comment in general and will in the revised draft add proposed wording about the prevailing language version.

## WWF Denmark, 31 August 2015

### “General comments on the draft

Draft Mineral Licence and Safety Authority Guidelines for application, execution and reporting of offshore hydrocarbon exploration activities (excluding drilling) in Greenland have been put out to consultation in parallel with draft guidelines for offshore seismic surveys in Greenland with guidelines to BEP, EIA and EMA.

First of all, it is not clear how these two documents relate to each other, nor does the consultation invitation clearly specify which ministry is the sender of the first document<sup>1</sup>. The consultation exercises could have been strengthened by briefly describing the relevance of the two sets of guidelines and the division of responsibility between the Ministry of Mineral Resources and the Ministry of Nature, Environment and Justice.”

The MLSA has taken note of the comment and will describe in more detail the relationship between the two documents in question and the revised draft guidelines.

### “Comments on the contents of the draft Page 4:

The first paragraph provides the definitions for a number of abbreviated terms and designations used throughout the draft guidelines. WWF Denmark finds the definition of the MLSA (items J and K) confusing and unclear.

In the first item, the MLSA is defined as the Mineral Licence and Safety Authority but immediately below also the MRA is defined as the Mineral Licence and Safety Authority. In item K, the Mineral Licence and Safety Authority is defined as ‘the overall administrative authority for mineral resources and which comprises the Greenland Government, the ministry responsible for Mineral Resources, the Mineral Licence and Safety Authority and the Environmental Agency for the Mineral Resources Area, as well as any person or organization which is appointed by the MRA to conduct inspection and auditing of the licensee’s activities under the Licence’. This description is unclear and misleading, in particular that the Environmental Agency for the Mineral Resources Area, which is under the Ministry of Environment, Nature and Justice, is made a part of the Mineral Licence and Safety Authority. The Ombudsman for Inatsisartut settled in a statement about public access to information last year, that ‘the Mineral Licence and Safety Authority and the Environmental Agency for the Mineral Resources Area must be seen as two separate authorities’. The definition of the Mineral Licence and Safety Authority in the Guidelines seems to go against this statement from the Ombudsman for Inatsisartut”.

The MLSA agrees with WWF Denmark’s comment on the definition, which is due to an unfortunate translation error of the “Mineral Resources Authority” in item K of the English version. The correct translation into Danish should have been “Råstofmyndigheden”.

“Page 7: It is stated that the exploration activities ‘shall be carried out according to acknowledged best international standards’. But only NORSOK standard G-001 is



mentioned. This standard was prepared by the Norwegian authorities with the marine areas off the coast of Norway in mind where ice conditions are completely different from the areas around Greenland. Which other 'acknowledged international standards' does the reference in the guidelines include?

WWF Denmark suggests that the MLSA initiates a process to define own standards for the activities which are adapted to the conditions in the waters around Greenland which are often challenging with respect to weather conditions, low visibility, tough ice conditions and enormous distances. High standards should be in place for the prevention of spills as last week's oil spill in the waters off the coast of East Greenland made it abundantly clear how difficult it can be to handle the oil once it has spread over the sea surface.

WWF Denmark opposes oil exploration activities in icy waters as the clean-up of such waters is particularly challenging and as no technologies exist today which are sufficiently advanced to ensure an environmentally sound clean-up in case of an oil spill. The consequences of a major oil spill in Greenlandic waters may seriously affect fishing, but also marine mammals and seabirds as well as local communities."

The MLSA refers to "acknowledged international standards" in general on the basis of the Mineral Resources Act in order to ensure a dynamic set of rules according to which the companies must document that they keep up with developments in the area. See our general comments at the top of the document.

The MLSA guidelines are furthermore adapted to Greenlandic conditions and legislation.

First of all, the MLSA would like to emphasise that the cause of the above-mentioned oil spill in East Greenland is unknown and is thus in principle not connected to mineral resources activities. However, the MLSA agrees that all experience must be included in the safety work involved in connection with mineral resources activities.

The guidelines provide that companies must have a documented health and safety system in place. Moreover, they must comply with MARPOL 73/78, be members of Greenland Oil Spill Response A/S and reference is made to the environmental guidelines for mineral resources activities.

The MLSA would like to emphasise that the guidelines mentioned in the response do not include stratigraphic drilling and exploratory drilling activities which are subject to special guidelines.

The MLSA agrees that all necessary measures must be taken to mitigate the risks associated with offshore hydrocarbon exploration activities. That is the very purpose of these guidelines.

The MSLA performs its regulatory duties according to the strategies on the area as adopted by the government in office from time to time. The MLSA therefore has no comments on WWF Denmark's statement that it opposes oil exploration activities in icy waters but refers to our comments above.

“**Page 7:** WWF Denmark would like to see a clarification of the section of the guidelines on publication of information on exploration activities. The general rule should not be what the MLSA may choose to publish but rather which information the MLSA *must* share with the public, see the Access to Public Administration Files Act. In a statement made in 2014, the Parliamentary Ombudsman emphasised that, for example, documents which are exchanged between the MLSA and the Environmental Agency for the Mineral Resources Area are governed by the general rules on access to documents (see previous reference).

<sup>2</sup> The Parliamentary Ombudsman. 2014. Statement.

<http://www.ombudsmand.gl/Portals/0/udtalelser/dk/Udtalelse%202014-905-00023%20med%20bilag%20dk.PDF>”

The MLSA agrees that as a public authority it must comply with current legislation on case administration and access to government information.

The MLSA will have the Danish translation of the wording in this section clarified.

The purpose of the wording is to point out that in addition to observing the general rules on case administration, access to government information and the anti-corruption policy guidelines issued by the Ministry of Mineral Resources in 2015, the MLSA may also publish other types of information.

For instance, the existing Standard Terms for Prospecting Licences – Hydrocarbons (March 2009) provide as follows in article 11.03: “The Bureau of Minerals and Petroleum is entitled to make general statements concerning the licence area and the work performed under the Licence. Furthermore, the Bureau of Minerals and Petroleum may, without restrictions or conditions, make use (including also publication) of material that in the opinion of BMP is of general public interest, including data and considerations of an environmental, technical, navigational, meteorological and glaciological nature, topographical maps and aerial photographs, and bathymetric maps.”

“**Page 8:** The list of information which must be submitted to the MLSA in connection with an application does not include information on preparedness. WWF Denmark assumes that this is due to a mistake and that information on preparedness must be included in the application.”

The MSLA agrees that the Danish translation of the English text must be clarified and that the wording can generally be made clearer. The intended meaning is that the company must provide documentation of its entire “health and safety” management system, meaning its entire health and safety preparedness system.

“**Page 9:** It is stated in the section on operational requirements and operations programme that the operation must be conducted with due regard to safety and the environment. However, the guidelines are very vague on this point as it is stated that ‘*risk of pollution and other harmful impacts on the environment shall be identified, assessed and reduced as is reasonable practicable*’. WWF Denmark fears that this sentence will be used by the

companies to exert pressure on the authorities to dilute the environmental requirements to the activities.”

In its regulation, the MSLA applies a risk management principle which is internationally acknowledged as the best practice in the area. One element of the risk management involves what is defined in English as “as low as reasonably practicable” (ALARP). In Danish it is about reducing any risk as much as is reasonably practicable.

The PAME Guidelines 2014 recommend that authorities continuously seek to improve standards through the regulation of oil and gas operations and to learn from the experience gained in situations which have resulted in accidents. The Arctic Council points out, among other things, that a prescriptive “checklist” approach where the authorities list their requirements to the companies in the form of a checklist of minimum standards which the companies must meet may create a false sense of security.

In order to actually assess whether a risk has been reduced as much as is reasonably practicable, the assessment must be based on a genuine analysis of all hazards.

The MSLA acknowledges in this connection that any risk management system will have advantages and disadvantages, but it is our assessment that the advantages of a dynamic and proactive risk management approach by far exceed the disadvantages of the “checklist” approach.

The MSLA has thus decided to maintain this principle and in doing so we are in line with generally accepted international standards, e.g. in the PAME Guidelines 2014, Norwegian, Canadian and British standards, as well as recommendations, see international standards for environmental and safety systems, including ISO 14001 Environmental Management and OHSAS 18001 Occupational Health and Safety.

**“Page 11:** With the guidelines, the authorities secure themselves a right to demand that Fishery Liaison Officers (FLOs) are involved in the exploration activities. Their role is to advise the companies on fishing matters in the area and also to ensure dialogue between the companies and the local fishermen.

Is it a mistake that the guidelines do not mention the requirements of having four Marine Mammal and Seabird Observers (MMSOs on board) (see parallel consultation process concerning draft guidelines for seismic surveys)?

We are also surprised that the possibility of requiring the company to have FLOs on board is not mentioned in the actual draft guidelines for seismic surveys, as experience has shown that challenges may arise in relation to existing fishing activities during the seismic surveys as well (see our response to the guidelines for seismic activities, dated 25 August 2015).”

The environmental requirements in connection with the specific activity, performing seismic surveys, are dealt with in the guidelines of the Environmental Agency for the Mineral Resources Area., where the MMSO requirement is set out. The MMSO and data collection requirements are described in “Manual for Seabird and Marine Mammal Survey on Seismic

Vessels in Greenland” which were published in 2015 in the 4<sup>th</sup> revised edition. The manual is available on the website [www.govmin.gl](http://www.govmin.gl) .

**“Page 12:** WWF Denmark fails to understand why the authorities with the new guidelines would pave the way for the companies to derogate from the IMO guidelines. Section 5.6.3 is thus inconsistent with section 5.5.1, which states that the licensee ‘shall ensure that all national and international laws/rules/regulations (...) are followed’. We suggest that the last sentence in section 5.6.3 is deleted.”

The MLSA refers to the general comments on risk management.

In the opinion of the MLSA, the guidelines are to contribute to and strengthen the authorities’ possibility of keeping pace with developments within best international practice. The authorities must therefore also be given the opportunity to approve new solutions which are documented to be better than what is currently stated in the guidelines.

**Kalaallit Nunaanni Aalisartut Piniartullu Katuffiat (the Association of Fishermen and Hunters in Greenland), 28 August 2015**

*“We have members along the coast who are local or traditional knowledge holders, some of the knowledge held by those persons, on account of their staying in the local area year round, has not even been identified by scientific surveys, and when changes occur to the environment they are able to report on the changes every time before research staff has even come that far. Such holders of knowledge which they have observed during seismic surveys are suitable for use in analyses, e.g. after interviews and questionnaire studies and the like.*

*And, if similar activities have been carried out in the local communities in Greenland or from our neighbouring countries, we see it as completely necessary that information is given on observations made by locals who have lived in the area for many years and their experience.”*

The MSLA has taken note of the comment. The MLSA refers to the Environmental Agency for the Mineral Resources Area which deals with the environmental aspects of mineral resources activities.

## NUNAOIL A/S, 31 August 2015

“The consultation document implies that the guidelines are no longer to only apply to offshore exploration activities to be carried out on the basis of a prospecting licence or an exclusive licence for the exploration for and exploitation of hydrocarbons, but also for scientific survey licences.”

The reference to scientific surveys has been deleted.

“The consultation document refers to ‘Guidelines to Best Environmental Practices (BEP)’ as well as ‘Environmental Impact Assessments (EIA) and Environmental Mitigation Assessments (EMA) 2015’. However, the guidelines are nowhere to be found on the MLSA website if clicking the link on pp 6 and 7 of the consultation document (the Danish version). NUNAOIL assumes that the guidelines in question are the guidelines which at the time of writing have been put out to consultation with a deadline for responses on Monday, 31 August at 12 noon (‘Guidelines for offshore seismic exploration activities in Greenland: Guidelines to Best Environmental Practices (BEP), Environmental Impact Assessments (EIA) and Environmental Mitigation Assessments (EMA)’).”

It is correct that the guidelines referred to are those put out to consultation by the Environmental Agency for the Mineral Resources Area. The MLSA agrees that the wording should be clarified.

“It is included in the new guidelines that licensees must have a valid agreement with GOSR covering the activities which will take place, before any activities can be approved. It is NUNAOIL’s understanding that such valid agreement with GOSR is only required for licensees wanting to carry out offshore hydrocarbon activities under a prospecting licence or an exclusive licence and not on the basis of a scientific licence.”

The reference to scientific surveys has been deleted.

“Section 9 ‘Social sustainability’ is new compared to the previous guidelines.”

That is correct. The guidelines have been updated in general, e.g. for the purpose of including the latest amendments to the Mineral Resources Act, including the latest amendments to section 18 of the Mineral Resources Act on the use of Greenlandic manpower etc.

“As Greenlandic hydrocarbon-related data are no longer managed by GEUS but by the Ministry of Mineral Resources’ new cooperating partner CDA on behalf of Naalakkersuisut, section 10.1 concerning the submission of data and the related Appendix F have been amended accordingly. It is NUNAOIL’s assessment that the wording in section 10 is unclear in places, particularly with respect to how many copies (1 or 2) and in what format (paper or digitally) data must be submitted to the Ministry of Mineral Resources and Schlumberger Software Integrated Solutions, respectively. It is stated in section 1 of Appendix F that data

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(listed in subsequent sections 2-7) must be sent to the MLSA and Schlumberger Software Integrated Solutions, respectively, but under the respective sections 2-7 only the MLSA is specified as the recipient of data.”

The Department of Geology will make the changes to the relevant sections.

“Unclear wording has been used in section 2c of Appendix F. We assume that it should be understood so as to mean that the following must be submitted:

- A copy of the final stack after full pre-stack data processing in SEG-Y format
- A copy of the final stack after both full pre-stack and post-stack data processing in SEG-Y format and

A copy of partial stacks (offset/angle) in SEG-Y format.”

Relevant sections will be clarified.

In Appendix F concerning 3D seismic data, we are surprised that seismic data is not requested in the same version as for 2D seismic data (only the final processed migrated version in SEG-Y is requested).

Relevant sections will be clarified.

“Appendix H (‘Guidelines for health systems and medical emergency preparedness’) is a new initiative which has not previously been part of the guidelines for application, execution and reporting of offshore hydrocarbon exploration activities (excluding drilling) in Greenland.”

This is correct. A new appendix to the guidelines specifying the requirements to the companies’ documentation of health and medical emergency preparedness systems has been prepared. However, these are not additional requirements or new principles.

## Transparency Greenland, 31 August 2015

“Transparency International Greenland has received the above consultation document with a deadline for responses on 31 August 2015.

Transparency International Greenland (TIG) is an organisation working together with the international umbrella organisation Transparency International to prevent corruption in Greenland.

Transparency International Greenland (TIG) would like to thank you for the opportunity to take part in the consultation process.

The revision of the guidelines is very unclear with respect to the possibilities of the public to oversee and possibly exercise influence on the authorities’ decisions and actions with regard to the areas mentioned in the guidelines. TIG finds this to be very unfortunate.

By way of example (page 7), section 2.2: Publication of Information on Exploration Activities. This section only states that the MLSA may publish information on general issues. TIG believes that in the interest of the public, general issues in relation to exploration activities should always be published and that only in exceptional cases should this publication be limited.”

The MLSA agrees that there should always be transparency with respect to the publication of general issues on exploration activities. The MLSA intends to continue publishing annual information on all hydrocarbon exploration activities, activity approvals and 3-day reports on offshore activities.

The purpose of the wording in question is to remind the mineral resources companies that, in addition to observing the general rules and principles on case administration, access to government information and the anti-corruption policy guidelines issued by the Ministry of Mineral Resources in 2015, the MLSA may also publish other types of information, i.e. an extended right of publication and not a limitation.

This applies, for example, to existing Standard Terms for Prospecting Licences – Hydrocarbons (March 2009), article 11.03: “The Bureau of Minerals and Petroleum is entitled to make general statements concerning the licence area and the work performed under the Licence. Furthermore, the Bureau of Minerals and Petroleum may, without restrictions or conditions, make use (including also publication) of material that in the opinion of BMP is of general public interest, including data and considerations of an environmental, technical, navigational, meteorological and glaciological nature, topographical maps and aerial photographs, and bathymetric maps.”

“In section 2.3 (page 7): Environmental Impact Assessment (EIA) or Environmental Mitigation Assessment (EMA). It is not clear from the guidelines referred to how a distinction is made between when an EIA is required and when an EMA is required. This is



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very unfortunate as the EIA, with two consultation exercises, is much to be preferred from a public involvement perspective.”

The MLSA refers to the guidelines of the Environmental Agency for the Mineral Resources Area.

## ICC Greenland, 31 August 2015

“Dear MLSA,

ICC Greenland would like to express support for WWF Denmark’s response concerning the guidelines for offshore hydrocarbon exploration activities. ICC Greenland agrees in general with WWF Denmark’s comments, except for the comment about opposing oil exploration activities in icy waters. We would like to point out in this connection that ICC Greenland does not generally oppose oil exploration activities but that ICC Greenland would like the highest environmental standards and to see a proactive approach to further develop and adapt technologies to the challenging conditions prevailing in the Arctic area so as to counter challenges swiftly and effectively.

On behalf of Hjalmar Dahl, President of ICC Greenland

Yours sincerely Parnuna -- Parnuna Egede Ph.D. Fellow / Ph.D.-mut ilinniartoq Aalborg University, Ilisimatusarfik – University of Greenland & Inuit Circumpolar Council – Greenland +4561302480”

The MLSA would like to thank you for your response and furthermore refers to our comments on the response received from WWF Denmark.

## Greenpeace, 25 August 2015

### “ General comments

Greenpeace is of the ‘clear opinion that in the preparation of guidelines, it is inadvisable for the MLSA still not to be taking the special conditions into account which prevail in Greenland – and particularly so for oil exploration activities in the northern areas. A direct implementation of, for example, Norwegian standards such as NORSOK standard G-001 is not sufficient in areas massively affected by sea and drift ice.

Greenpeace vigorously opposes oil exploration activities in icy waters, but if Greenland intends to continue its current course, the organisation would strongly recommend that it issues a set of standards – possibly in collaboration with other Arctic states – which are specifically aimed at operations in icy waters.

The most recent example of the oil spill east of Taasilaq makes it abundantly clear that the current oil spill response is not just inadequate, but practically useless in the case of an oil spill in bad weather since Arctic Command has not even been able to take a sample of the oil. This is not intended as a criticism of Arctic Command, but as a way of pointing out that it is currently impossible to clean up an oil spill in bad weather and icy waters. This is in line with the conclusions of the Arctic Oil and Gas Overview 2007 issued by the Arctic Council: “There are no effective means of containing and cleaning up oil spills in broken ice” (AMAP 2007). The same conclusions were drawn by the US National Research Council in 2003, and earlier this year the Norwegian authorities had to abort an oil spill training exercise in the Barents Sea due to “windy” conditions<sup>1</sup>.

Greenpeace would therefore encourage the MLSA to impose much stricter requirements on the companies’ oil spill response and to carry out a reality check of response plans and equipment prior to any approval of oil exploration activities in Greenlandic waters. A simple agreement with GOSR will not in any way be adequate, Greenpeace being of the opinion that GOSR's equipment is not better than that of Arctic Command and they will therefore simply encounter the same problems. At the same time, Greenpeace would suggest that Arctic Command is given an official role to play in the assessment of the oil spill response of each individual company since it will be Arctic Command which will be required to take charge if the company’s oil spill response turns out to be inadequate.

Also, it should be noted that, notwithstanding repeated requests in this respect, the Government of Greenland and particularly the MLSA have not yet managed to draw up a special set of guidelines for operations in areas of concern. The Government of Greenland has designated these areas and they must be assumed to be important to a number of endangered sea mammals. Therefore, a special set of guidelines should be implemented in the same way as for closed areas<sup>2</sup>. At present, areas of concern are managed in the same way as the rest of the Greenlandic sea, which undermines the special status of the areas and entails a risk of irreparable damage to the most vulnerable species.”

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1 [http://www.nrk.no/finnmark/\\_-oljevern\\_fadesen\\_viser\\_at\\_vi\\_ikke\\_kan\\_bore\\_i\\_barentshavet-1.12460195](http://www.nrk.no/finnmark/_-oljevern_fadesen_viser_at_vi_ikke_kan_bore_i_barentshavet-1.12460195)

The MLSA agrees with Greenpeace in its observations that the guidelines should reflect cooperation with other Arctic states. Greenland is an active participant in the Arctic Council and participates in the PAME and the Arctic Offshore Regulators Forum working groups. The MLSA further agrees that the special conditions prevailing in Greenland must be taken into account in connection with the activities. Reference is made several times in the guidelines to NORSOK standard G-001. Generally, the guidelines additionally cover a number of operative requirements to the companies which have been adjusted to reflect conditions in Greenland and have been prepared on the basis of Greenlandic and international experience. See sections 5 and 6 of the Guidelines.

The MLSA would like to point out that there are separate guidelines for drilling activities and that the guidelines which have been put out to consultation are specifically defined to apply to all non-drilling activities.

The MLSA agrees that a reality check of the companies' response plans should be made before any approval of activities is granted. Therefore, section 6 of the guidelines exclusively concerns the requirements to documentation of the company's health and safety systems in accordance with internationally recognised standards.

The company must have a documented management system for health and safety. The company must also comply with MARPOL 73/78, which specifically concerns oil spill response. In addition, the company must also be a member of Greenland Oil Spill Response A/S. The requirement for GOSR membership is therefore not the only requirement in this respect.

The MLSA agrees that all relevant authorities and partners must be involved. That is the reason why, for example, Arctic Command is a permanent consultation partner for all marine activities and must be notified on start-up of all activities, as also described in section 7 of the guidelines.

The MLSA states in its guidelines as a general principle governing all activities that they must be carried out with due regard to actual conditions and circumstances in the area of activity. This also applies to any such areas as are defined by Greenpeace – without further reference – in its response as “areas of concern”.

The MLSA refers to the environmental guidelines with regard to the position taken by Greenpeace concerning the knowledge base of the environmental regulation.

The MLSA agrees that the purpose of the guidelines is to ensure compliance by the companies with the requirements to the activities which are carried out, including the requirements of BEP and BAT.

## Specific comments

“According to page 7, “Offshore hydrocarbon exploration activities shall be carried out according to acknowledged best international standards, such as”. But only NORSOK standard G-001 is mentioned. Greenpeace would like to know which other international standards the activities will be subject to? As already pointed out, the NORSOK standards were not issued with the unique ice conditions prevailing in various parts of Greenland in mind and are therefore not directly transferable from Norwegian to Greenlandic conditions.

In section 2.2 on page 7 it should be clarified which parts of the application dossier the MLSA believes it is required to publish under the Access to Public Administration Files Act and the Mineral Resources Act.

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2 However, Greenpeace is of the opinion that the special guidelines for the closed areas are inadequate and should be revised.

In section 3.1 on page 7, the current wording may be taken as meaning that the application must be submitted in English only. Greenpeace would recommend adding Danish and Greenlandic as additional languages.

Section 3.4 on page 8 describes the information which must be provided in applications to the MLSA. The list seems very incomplete and Greenpeace is surprised that there is no mention of, for example, a response plan for accidents and oil spills.

According to section 3.6 on page 8, “Deviation from the above mentioned deadlines and requirements will only be allowed if the applicant has proven just cause to do so”. What will be deemed by the MLSA to be just cause?

According to section 4.1.2 on page 9, “Risk of pollution and other harmful impacts on the environment shall be identified, assessed and reduced as is reasonable practicable”. The word practicable is extremely unclear and, historically, has been used as a means of undermining environmental standards – e.g. in connection with the approval of massive chemical discharges into the sea from Cairn’s exploratory drilling activities in 2010 and 2011.

It would seem to be contradictory when it is stated in section 5.5 on page 12 that “The licensee shall ensure that all national and international laws/rules/regulations on ships, equipment, crew, and navigation are followed” and a deviation from the IMO polar guidelines is then made available on page 8. In Greenpeace’s opinion, this is inexpedient.

Section 8.1 on page 15 should be headed “Best Environmental Practice (“BEP”) and Best Available Technology (“BAT”) as the section concerns both.

Greenpeace is surprised that there is no mention in section 8 about companies’ acquisition of data concerning the presence, for example, of whales in areas of activity. Considering the deficient knowledge about the areas, the oil exploration activities should – if the companies are to be allowed to operate in those areas at all – be regarded as a means of ensuring acquisition of additional data. In the case of TGS-NOPEC, the authorities have accepted for the past four years that the company has acquired no data about seismic effects and the

number of whales in the area – contrary to the agreements with the MLSA. In light of this, Greenpeace would suggest introducing a range of sanctions that may be imposed on companies which fail to comply with the requirements regarding data acquisition and submission.

With regard to insurance, Greenpeace would advise against any departure from the requirement of a Standard and Poor A rating.”

The MLSA refers to the general comments with regard to an unfortunate mistake in the Danish translation of the English-language version where the MRA was translated into Danish in the definitions to the Mineral Licence and Safety Authority (MLSA) instead of the Mineral Resources Authority, which is the proper translation.

The MLSA agrees that the description of the relationship between the environmental guidelines and the MLSA’s guidelines should be clarified.

The MLSA refers to its general comments on and references to the PAME Guidelines 2014.

The MLSA refers to the comments on the response submitted by Transparency Greenland concerning publication and information.

The MLSA agrees with the comment on section 3.1.

The MLSA refers to the comments on the response submitted by WWF, see section 3.4.

Section 3.6. The MLSA agrees with the comment and has implemented clearer wording.

The MLSA refers to the comments on the response submitted by WWF Denmark with regard to the ALARP principle.

The MLSA refers to section 8.2 of section 8 which requires the licensee to keep a logbook of meteorological, oceanographic and ice observations made during exploration activities, if so requested by the MLSA. In addition, it has been – and continues to be – a requirement that environmental data must be acquired. This matter is dealt with in section 6.5 on Marine Mammal and Seabird Observers (MMSO) of the environmental guidelines, which describes how data are to be acquired.

The requirement of the presence of MMSOs and data acquisition is described, among other things, in the “Manual for Seabird and Marine Mammal Survey on Seismic Vessels in Greenland”, which was published in a 4th revised edition in 2015. The manual can be found on the following website: [www.govmin.gl](http://www.govmin.gl).

## Greenland Oil Industry Association (GOIA) den 31. August 2015

#1: "GOIA has reservations that such guidelines place unnecessary requirements on all non-drilling activities no matter how benign. This may exert an unreasonable burden on both operators and regulatory authorities giving rise to delay and implications where operating conditions are restricted due to weather and ice. GOIA supports appropriate applications and mitigations where applicable".

The MLSA has noted the comment but would like to clarify that the basic principle of assessing the specific activities from case to case has not been changed.

#2: "The application process is defined as taking 40 days for approval but it is unclear if multiple activities can be bundled in a single application programme. Where multiple activities are planned potential for delay arises if only loosely related activities require separate applications."

The MLSA has noted the comment and will clarify the wording.

#3: "The modification of activities requires further approval and the application must be 'well in advance of expected effectuation of the modification'. Field programme changes may be influenced by circumstances in location of interest and more dynamic circumstances. GOIA suggests consideration be given to a more flexible approach to approval of changes and these should apply where potential for material impact to safety, the environment or local community activities may occur. Clarity around what is meant by 'well in advance' is recommended".

The MLSA has noted the comment and will clarify the wording.

#4: "GOIA recommends insertion of 'where an EIA/EMA applies at the end of this paragraph'".

The MLSA agrees with this comment and has adjusted the wording

#5: "See comment on seismic guidelines regarding leaving anchors on the seabed".

The MLSA refers to the EAMRA guidelines.

#6: "GOIA suggests some clarification is made regarding stand-alone vessels or limited operations. The licensee performs acceptance work to satisfy themselves that the contractor operates systems and emergency mechanisms that are fit for purposes with evidence to the MLSA, other support mechanisms may be through IMO requirements such as MRCC arrangements."

#7: "Some smaller vessels operating on behalf of licensees may perform as other vessels in Greenlandic waters and may be unable to support aviation and/or the licensee may not have their own aviation or extended support services in place. Consequently support services for injured parties will be dictated by the nature of injury and time to steam to nearest suitable

port. For limited operations this will promote use of contractors with established and more extensive capabilities and may mitigate against selection of local suppliers”

The guidelines set out that e.g. that a health plan and procedures shall be submitted. The guidelines furthermore set out, that these shall be adapted to the operations programme.

A guideline for such a health plan and procedures has been added as a practical tool, but the general principles such as the requirement that “an injured person can be transported from the vessel to a hospital” is the exact same requirement as in the existing guidelines, cf. item 6.1.2 (b) of the Guidelines of 2011.

#8: ”Many of the specialist industry technical services will not be available in Greenland and GOIA suggests that recognition of this is clearer in the guidelines. Documentation of repeated requests to various Greenlandic enterprises for services which are clearly unavailable could give rise to stakeholder fatigue. It is suggested that key focal points are identified to optimise checking for local services (e.g. specific trade bodies) and in order to prevent protracted searches”

The comment has been noted.

#9: “GOIA suggests clarification around availability of agreed data and that this should be following quality assurance/control and finalisation by the licensee.

The MLSA has noted the comment and will clarify the wording.



**KANUKOKA (the National Greenland Association of Regional Authorities), 31 August 2015**

“KANUKOKA would like to thank you for the consultation documents we have received.

The MLSA guidelines do not give rise to any comments. KANUKOKA agrees to the guidelines being clarified in a number of areas compared to the previous version.”