



NOTICE OF VIOLATION (NOV)
Canada–Newfoundland and Labrador Offshore Petroleum
Administrative Monetary Penalties Regulations

REFERENCE NUMBER: AMP-002-2020

1. INFORMATION FOR OPERATOR / OTHER PERSON / INDIVIDUAL

Name of Operator/Other Person/Individual: Transocean Canada Drilling Services Ltd.	TOTAL PENALTY AMOUNT (\$): \$64,000
Contact name and title for Operator/Other Person: Pierre Gully Rig Manager – Transocean Barents	Date of Notice: April 23, 2020
Operator/Other Person/Individual address: Suite 202 45 Hebron Way St. John's, NL. Canada A1A 0P9	Regulatory Instrument # (if applicable) Authorization No. 23020-020-0A05

On April 27, 2018, Transocean Canada Drilling Services Ltd. (hereinafter Transocean) violated ss. 161(1) of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, S.C. 1987, c.3 (the “*Accord Act*”, references herein are to this federal version), a violation listed in Schedule 1 of the *Canada–Newfoundland and Labrador Offshore Petroleum Administrative Monetary Penalties Regulations*, SOR/2016-19 (the “*AMPs Regulations*”). This violation is hereby subject to an administrative monetary penalty as outlined below.

2. VIOLATION DETAILS

Date of Violation: April 27, 2018	# Days of Violation 1
Has compliance been achieved? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If “No” a subsequent NOV may be issued)	
Location of Violation (e.g. facility/installation/vessel/head office or nearest geographical point) Mobile Offshore Drilling Unit (MODU) Transocean Barents drilling on the <i>Suncor et al Terra Nova L-98 14</i> well at approximate latitude 46°27’42.8”N longitude 48°29’52.3”W, on PL1002, a place within the Canada-Newfoundland and Labrador Offshore Area and within the Exclusive Economic Zone of Canada.	



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Short Form Description of Violation (Refer to AMP Regulations, Schedule 1):

The violation, a “Type B” violation pursuant to Schedule 1 of the *AMPs Regulations*, was a breach of ss. 161(1) of the *Accord Act* which provides:

No person shall cause or permit a spill on or from any portion of the offshore area.

3. RELEVANT FACTS (Briefly describe reasonable grounds to believe a violation has occurred)

On April 27, 2018, Transocean was the drilling contractor providing services to Suncor Energy Inc. (hereinafter Suncor), the holder of operating license 1707 and authorization 23020-020-0A05, as well as an approval to drill a well (ADW) issued on November 29, 2017 for the *Suncor et al Terra Nova L-98 14* well, with subsequent amendments approved for sidetracks *L-98 14Z* and *L-98 14Y*.

Synthetic base mud (SBM) is a fluid consisting of a highly refined petroleum product mixed with weighting agents and other additives to form a drilling mud. The incident notification and investigation report submitted by Suncor state that SBM was spilled to the sea from the MODU Transocean Barents on April 27, 2018. The discharge of whole SBM is prohibited under the Environmental Protection Plan submitted by Suncor as part of its application for an authorization, and, as such, it was not a discharge authorized as part of authorization 23020-020-0A05. The release of whole SBM to the sea constituted a spill contrary to ss. 161(1) of the *Accord Act*, such spill alone providing a basis to apply an AMP.

The failures by Transocean which enabled the SBM spill bear identification, as they reveal how similar occurrences might be avoided in future.

Based on information provided by witnesses, operations at the MODU Transocean Barents on April 27, 2018, were being conducted in a manner which did not conform to the requirements of Transocean’s *Midwater & Harsh Environmental Field Operations Procedures* and Transocean’s *Operational Integrity And Health, Safety & Environmental Policies (OI and HSE)*, Section 5, subsection 22 - that is, those documents contained a prohibition on open overboard dump gates during the operations that were underway when the spill of whole SBM occurred, but those operations were being conducted with open overboard dump gates. While the noted procedures allowed for overboard dump gates to be open if appropriate risk assessments had been done and safeguards were in place, it is clear from the investigation report submitted by Suncor on July 5, 2018, that the forms and risk assessments required by procedures were not properly completed in association with the transfer of whole SBM to support cementing operations on April 27, 2018.

Based on a review of Transocean and Suncor documents, witness statements, and the investigation report submitted by Suncor to the C-NLOPB on July 5, 2018, the C-NLOPB concludes that Transocean, or its agents and employees, failed to ensure and verify procedural compliance on the MODU Transocean Barents, and that procedural compliance would likely have prevented the spill of whole SBM that occurred on April 27, 2018. Thus, Transocean was a person who did “cause or permit a spill on or from any portion of the offshore area” in violation of subsection 161(1) of the *Accord Act*.



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4. PENALTY CALCULATION (Refer to AMP Regulations, Schedule 2)

a) Baseline Penalty (Total Gravity Value = 0)

Category:	Type A	Individual	Other Person
	Type A	<input type="checkbox"/> \$1,365	<input type="checkbox"/> \$5,025
	Type B	<input type="checkbox"/> \$10,000	<input checked="" type="checkbox"/> \$40,000

(b) Determination of Total Gravity Value	Gravity Value						
	n/a	Mitigating			Aggravating		
		-2	-1	0	+1	+2	+3
1 - Other violations in previous seven (7) years? None identified.	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
2 - Any competitive or economic benefit from violation? None identified.	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
3 - Reasonable efforts to mitigate violation's effect? No mitigation was required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
4 - Negligence by person who committed violation? Transocean knew, or ought to have known, that failing to follow its own plans and procedures related to SBM could cause a spill. Transocean failed to do what was reasonable in the circumstances by failing to follow its own plans and procedures related to SBM. A spill occurred as a result of the failure to follow procedures.	<input type="checkbox"/>	-	-	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	-
5 - Reasonable assistance to Board regarding violation? Transocean provided information to the board in the manner required by the applicable Acts and regulations and did not obstruct the investigation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
6 - Promptly reported violation to Board? Not applicable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
7 - Steps taken to prevent reoccurrence of violation? Transocean has indicated that measures that were described in their own operational documents prior to the incident would now be enforced during operations. No additional measures would be required to prevent reoccurrence.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
8 – Was primarily a reporting / record-keeping failure? No.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-	-	-
9 – Increased risk of harm to people or environment? There was a localized risk of harm to the environment.	<input type="checkbox"/>	-	-	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Total Gravity Value:

2



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c) Total Gravity Value:

(Total of gravity values determined in 4(b))

d) Daily Penalty

(The baseline penalty per 4(a) adjusted by total gravity value per 4(c). Refer to Administrative Monetary Penalties Regulations, Schedule 2)

e) Number of Days of Violation

(Refer to section 2 of form. If more than one day, provide justification below)

Notes to explain decision to apply multiple daily penalties (if applicable):

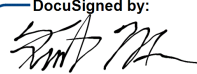
f) Total Penalty Amount

(Step 4(d) x Step 4(e))

5. DUE DATE (within 30 days after the NOV was served)

If you have any questions regarding this matter, please contact the undersigned.

Regards,

DocuSigned by:

B30DBF34B50147D...

Kent Munn
Administrative Monetary Penalties Officer
709-778-1434
kmunn@cnlopb.ca



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Notes:

You have the right to make a request for a review of the amount of the penalty or the facts of the violation, or both, within 30 days after the NOV was served.

If you do not pay the penalty nor request a review within the prescribed period, you are considered to have committed the violation and you are liable for the penalty set out in the NOV. The penalty is due on the date indicated above.

The unpaid penalty amount is a debt due to the Her Majesty in right of the Province and may be recovered in the Supreme Court of Newfoundland and Labrador.

AMPs Published on the C-NLOPB's Website:

In the interest of public transparency respecting the issuance of AMPs, information relating to the NOV may be posted on the C-NLOPB's website as soon as the NOV has been served (may include the name of the company who committed the violation, the issue date, the region and facility, the nature of the violation, and the amount of the penalty).

The C-NLOPB has the discretionary authority to post the complete NOV following the expiry of the 30 day period during which you may make a Request for Review, or upon issuing a decision following a Request for Review.

To Make Payment:

You may remit your fee payment by Cheque, Money Order, Bank Draft, or Electronic Funds Transfer (EFT). **Fees must be made payable to the Receiver General of Canada.**

Payment instructions are included in the attached Payment Form. Questions regarding payments or the Payment Form should be directed to the C-NLOPB's Corporate Services and Regulatory Affairs Department.

For Cheque, Money Order or Bank Draft payments, your completed Payment Form should be enclosed with your payment and mailed to:

Canada-Newfoundland and Labrador Offshore Petroleum Board: Finance
Suite 101, TD Place
140 Water Street
St. John's, NL A1C 6H6

For EFT payments, your completed Payment Form and notification of payment should be emailed to the C-NLOPB's Corporate Services and Regulatory Affairs Department: pbutler@cnlopb.ca or bwicks@cnlopb.ca.

To Request a Review:

Pursuant to section 202.2 of the *Accord Act*, you may file a Request for Review of this Notice of Violation by the Board.

The date of filing a Request for Review is the date on which the document is received in the C-NLOPB Information Account (information@cnlopb.ca).

If you elect to make a Request for Review, complete and submit the attached Request for Review form to information@cnlopb.ca.

For more information on reviews, please see the *Administrative Monetary Penalties Guidelines* available on the C-NLOPB's website.

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Request for Review of Administrative Monetary Penalty (AMP)**SECTION A – AMP NUMBER**AMP Number:

The information collected herein is protected in the provisions of the Privacy Act, and will be used and disclosed only as part of the process to request review of an administrative monetary penalty.

SECTION B – APPLICANT INFORMATIONName of Company/Individual: Contact Person: **Address:**Street: City: Province: Postal Code: **Mailing Address (if different from above):**Street: City: Province: Postal Code: **Contact Details:**Phone Number: Facsimile: Email Address: **SECTION C – REQUEST DETAILS****C.1 Identify Review Type**

If you received a *Notice of Violation*, you have the right to request a review in accordance with section 202.2 of the *Accord Act*. Please check the appropriate box, to identify what kind of review you are requesting, and then provide the corresponding information as instructed in Section C.2, C.3 or C.4, as applicable.

(Mark only ONE of the following boxes)

 Review of Penalty Amount Review of Facts of Violation Review of Both



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C.2 Review of Penalty Amount

Provide detailed reasons why the C-NLOPB should determine that the amount of the penalty was not determined in accordance with the regulations (*if more space is needed, please attach information to the back of this form*):

C.3 Review of facts of Violation

Provide detailed reasons why the C-NLOPB should determine that you did not commit the violation (*if more space is needed, please attach information to the back of this form*):

C.4 Review of Both Penalty Amount and Facts of Violation

Provide detailed reasons why the C-NLOPB should determine that the amount of the penalty was not determined in accordance with the regulations and that you did not commit the violation (*if more space is needed, please attach information to the back of this form*):



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SECTION D – PREFERRED MODE OF REVIEW

Indicate the manner in which you prefer the review be carried out.
(Mark only ONE of the following boxes)

- Written submission only
- Written submission and verbal presentation

Note: This form is intended to enable a person served with a Notice of Violation to request a review of either the administrative monetary penalty amount set out in said Notice, or the facts of the violation, or both, within 30 days after the day on which the Notice of Violation is served. Instructions for submission are provided at the end of this form.

The C-NLOPB will provide review timelines upon receipt of a Request for Review.

If the Request for Review is received by the C-NLOPB after the due date, the requestor will be notified that the request opportunity has passed, and that the administrative monetary penalty is to be paid by the original due date.

*Detailed information on the administrative monetary penalties (AMPs) process is available in the **Administrative Monetary Penalty Guidelines** found on the C-NLOPB's website.*

INSTRUCTIONS for Submitting Request

The completed request for review can be submitted electronically to information@cnlopb.ca.

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Administrative Monetary Penalty (AMP)**PAYMENT FORM**

REFERENCE NUMBER:

Name of Operator/Other Person/Individual:	Regulatory Instrument #
Contact name and title for Operator/Other Person:	TOTAL PENALTY AMOUNT (\$):
Operator/Other Person/Individual address:	Date of Notice: Payment Due Date:

FOR PAYMENT NOTIFICATION	
<input type="checkbox"/> Payment Remitted (Follow payment instructions below)	
Method of Payment	
<input type="checkbox"/> Cheque, Money Order or Bank Draft (attached to this Payment Form)	
<input type="checkbox"/> Electronic Funds Transfer (EFT). Date of EFT: _____	
Contact Information for Payment (if different from above): Name, address, and telephone and fax numbers	

Questions regarding this form should be directed to the C-NLOPB's Corporate Services and Regulatory Affairs and Finance Department, pbutler@cnlopb.ca or bwicks@cnlopb.ca.

PAYMENT INSTRUCTIONS:**A. For payments made by cheque, money order or bank draft**

1. Attach a copy of this form and quote the reference number with your payment.
2. Payments must be made payable to the Receiver General of Canada.
3. Payments must be denominated in Canadian dollars.



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Remittances must be sent to:

Canada-Newfoundland and Labrador Offshore Petroleum Board
Suite 101, TD Place, 140 Water Street
St. John's, NL A1C 6H6

B. For remittances made using Electronic Funds Transfer (EFT)

For EFT payments, your completed Payment Form and notification of payment should be emailed to the C-NLOPB's Corporate Services and Regulatory Affairs Department: pbutler@cnlopb.ca or bwicks@cnlopb.ca.

NOTES:

1. Remittances in currencies other than Canadian dollars or sent to other government agencies other than the Receiver General of Canada will be deemed **not to have been received** by the Canada-Newfoundland and Labrador Offshore Petroleum Board.
2. If payments are not received in accordance with the terms of the Notice of Violation, penalties will be recovered in accordance with the *Accord Act*.
3. Overdue accounts will be charged interest at the rate of 1.5% per month compounded monthly.

To obtain additional information about and view the *C-NLOPB Administrative Monetary Penalties Regulations*, please go to:

<https://www.cnlopb.ca/legislation/regulations/>