



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

REFERENCE NUMBER: AMP-003-2021

1. INFORMATION FOR OPERATOR / OTHER PERSON / INDIVIDUAL

Name of Operator/Other Person/Individual: Hibernia Management and Development Company Ltd. (HMDC)	TOTAL PENALTY AMOUNT (\$): \$40,000		
Contact name and title for Operator/Other Person: Stephen Edwards, President	Date of Notice: August 13, 2021		
Operator/Other Person/Individual address: <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Business Office: 20 Hebron Way St. John's, NL A1A 0L9</td> <td style="width: 50%;">Registered Office in NL: Stewart McKelvey Suite 1100 Cabot Place 100 New Gower Street St. John's, NL, A1C 6K3</td> </tr> </table>	Business Office: 20 Hebron Way St. John's, NL A1A 0L9	Registered Office in NL: Stewart McKelvey Suite 1100 Cabot Place 100 New Gower Street St. John's, NL, A1C 6K3	Regulatory Instrument # (if applicable) Authorization No. 22020-020-OA09
Business Office: 20 Hebron Way St. John's, NL A1A 0L9	Registered Office in NL: Stewart McKelvey Suite 1100 Cabot Place 100 New Gower Street St. John's, NL, A1C 6K3		

On August 17, 2019, a spill of approximately 2,194 litres of petroleum occurred from the Hibernia Platform. A spill constitutes a violation of subsection 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) for which an Administrative Monetary Penalty (AMP) may be issued pursuant to subsection 2(1) of the *Canada–Newfoundland and Labrador Offshore Petroleum Administrative Monetary Penalties Regulations*, SOR/2016-19 (the “*AMPs Regulations*”).

2. VIOLATION DETAILS

Date of Violation: August 17, 2019	# Days of Violation 1
Has compliance been achieved? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>(If “No” a subsequent NOV may be issued)</i>	
Location of Violation <i>(e.g. facility/installation/vessel/head office or nearest geographical point)</i> At the Hibernia Platform, located on Production Licence PL 1001, which is a place within the Canada-Newfoundland and Labrador Offshore Area.	



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Short Form Description of Violation:

Subsection 161(1) of the *Accord Act* states:

“161(1) No person shall cause or permit a spill on or from any portion of the offshore area.”

The spill from the Hibernia Platform on August 17, 2019 was a contravention of subsection 161(1) of the *Accord Act* and as such, pursuant to subsection 3(1) of the AMPs Regulations is classified as a Type B violation as described in Schedule 1 of the AMPs Regulations.

For clarification, *spill* means a discharge, emission or escape of petroleum, other than one that is authorized under subsection 161.5(1), the regulations or any other federal law. It does not include a discharge from a vessel to which Part 8 or 9 of the *Canada Shipping Act, 2001* applies or from a ship to which Part 6 of the *Marine Liability Act* applies.

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

On August 17, 2019, I was the assigned Duty Officer at the C-NLOPB. At approximately 9:06 pm, I received a call from HMDC reporting that they had activated their emergency response plans as a result of an overflow of oily water into the sea from the hazardous opens drain tank onboard the Hibernia Platform. A summary of the verbal notification was distributed to C-NLOPB staff [Tab 1].

On August 18, 2019, at 5:05 pm, HMDC provided a written notification to the C-NLOPB confirming that a spill had occurred. That written notification also stated that an aerial surveillance flight on the morning of August 18, 2019, observed an estimated 2,194 litres of petroleum on the surface of the sea based on Thickness-Appearance-Rating (TAR) code calculations [Tab 2].

The original investigation report submitted by HMDC on September 1, 2019 [Tab 3] and the two subsequent revisions to the investigation report submitted September 17, 2019 [Tab 4] and September 25, 2019 [Tab 5], respectively, provided further confirmation that a spill had occurred. The September 25, 2019 report [Tab 5, pg. 6, 31, 34] also conveyed that on August 17, 2019, there was a loss of instrument air pressure on the deluge system resulting in a release of deluge water to deck. The additional water on deck drained into the hazardous opens drains system, exceeded the capacity of that system and as a result, a mixture of oil and oily water was discharged overboard via an overflow line.

I also reviewed HMDC’s “Environmental Protection Plan” [Tab 13 and 14] which was accepted as part of its application for authorization which confirms that the manner in which the oil and oily water discharged overboard (the spill) was not an authorized discharge.

As a result of my review of the above, I have reasonable grounds to believe that on August 17, 2019, a spill of approximately 2,194 litres of petroleum occurred from the Hibernia Platform and this was a spill as defined by subsection 160 (1) of the *Accord Act*. A spill is prohibited by 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**
Type B

Individual

\$1,365
 \$10,000

Other Person

\$5,025
 \$40,000

Gravity Value

(b) Determination of Total Gravity Value

	Mitigating			Aggravating			
	n/a	-2	-1	0	+1	+2	+3
1 - Other violations in previous seven (7) years?	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
There have been no previous Notice of Violations issued to HMDC since the AMPs Regulations came into effect in 2016.							
2 - Any competitive or economic benefit from violation?	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
None identified.							
3 - Reasonable efforts to mitigate violation's effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
<p>In determining the gravity factor, in addition to the information noted above, I reviewed the following information:</p> <ul style="list-style-type: none"> • Status update from HMDC to C-NLOPB on August 19, 2019. [Tab 6] • Meeting minutes from daily updates between HMDC and C-NLOPB, Environment & Climate Change Canada – National Environmental Emergencies Centre (ECCC-NEEC), Department of Fisheries and Oceans (DFO), Canadian Coast Guard (CCG), Environment & Climate Change Canada - Canadian Wildlife Service (ECCC-CWS) from August 19 – August 23, 2019. [Tab 7(a)-(e)] • Status update from HMDC to C-NLOPB on August 22, 2019. [Tab 8] • Email from HMDC to K. Bulger on June 11, 2021 with response to questions on the status of completion of corrective actions and to summarize of any other measures that were taken following this incident. [Tab 9] <p>In summary, HMDC activated its Oil Spill Response Plan in a timely response and in a manner consistent with the Plan. [Tab 2]. This included “Immediate Verbal Notification” to the C-NLOPB, CCG, ECCC-NEEC, DFO and CWS, deployment of spill response equipment, aerial surveillance flights, recovery of released fluid, water sampling and placement of several independent wildlife observers onboard the installation, vessels and aerial surveillance flights. In addition to the requirements of the Oil Spill Response Plan, daily collaboration and consultation occurred between HMDC, C-NLOPB, ECCC-NEEC, DFO, CCG and ECCC-CWS. [Tab 7(a)-(e)]</p> <p>In addition, the response, recovery and observation efforts resulted in the following:</p> <ul style="list-style-type: none"> • On August 19, 2019 (two days after the event), subsequent aerial surveillance flights observed an estimated 36 litres and 4.5 litres of petroleum on the surface of the sea based on TAR code calculations. [Tab 5, pg. 6] 							



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<ul style="list-style-type: none"> On August 19, 2019, one vessel reported recovery of 8 – 9 m³ of oily water mixture [Tab 7(a)] and other vessels had to be decontaminated upon returning to shore. [Tab 7(c)-(e)] On August 22, 2019, HMDC reported that the sheen was fully dissipated but wildlife observations were ongoing. [Tab 8] 							
4 - Negligence by person who committed violation?	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
None identified.							
5 - Reasonable assistance to Board regarding violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
Yes, HMDC provided assistance to the Board in alignment with expectations.							
6 - Promptly reported violation to Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
HMDC reported the incident to the C-NLOPB in alignment with expectations in the <i>C-NLOPB's Incident Reporting and Investigation Guideline</i> .							
7 - Steps taken to prevent reoccurrence of violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
<p>In accordance with subsection 76(2) of the <i>Newfoundland Offshore Petroleum Drilling and Production Regulations</i>, SOR/2009-316, HMDC completed a number of corrective actions to prevent a reoccurrence of this incident. In addition:</p> <ul style="list-style-type: none"> In correspondence between the C-NLOPB and HMDC on September 6, 2019, several actions were requested by the C-NLOPB to be completed prior to start-up of the Hibernia Platform. [Tab 10] On September 27, 2019, Hibernia completed those actions and was granted permission to restart production. [Tab 11] As of June 11, 2021, all corrective actions were confirmed as completed from the September 25, 2019 investigation report. While some of the corrective actions are completed, further reviews are ongoing. [Tab 9] HMDC confirmed on June 11, 2021, that it has also implemented “Enhanced Process Safety Practices” onboard the Hibernia Platform to further mitigate potential high consequence risks. [Tab 9] HMDC confirmed on June 11, 2021, that it has also shared its learnings from this incident with local industry at the C-NLOPB Spill Prevention and Response Forums (December 3-4, 2019 and January 13-14, 2021). [Tab 9] 							
8 – Was primarily a reporting / record-keeping failure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	-	-	-
No.							
9 – Increased risk of harm to people or environment?	<input type="checkbox"/>	-	-	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In correspondence provided from the ECCC–CWS on July 16, 2021, it was learned that while there was no confirmed impact to wildlife in the area of the spill, surveys conducted by the ECCC-CWS during the month							



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leading up to the spill and the weeks following the spill confirmed that various species of birds were present in the vicinity of the Hibernia platform. Based on this information, the ECCC-CWS concluded that the release of oil into the water from the Hibernia platform results in increased risk of harm to birds in the area. [Tab 12]

Total Gravity Value:

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:

HEA65B3759E7941F...

Kelly Bulger
Administrative Monetary Penalties Officer
709-778-1407
kbulger@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 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
240 Waterford Bridge Road
The Tower Corporate Campus – West Campus Hall
Suite 7100
St. John's, NL A1E 1E2

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

To Request a Review:

Pursuant to the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* (reference to Federal Version), Section 202.2, 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 INFORMATION

Name 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 subsections 198.12 and 202.2 of the *Accord Acts*. 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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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: pbutler@cnlopb.ca or cfinlay@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
240 Waterford Bridge Road
The Tower Corporate Campus – West Campus Hall
Suite 7100
St. John's, NL
A1E 1E2

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: pbutler@cnlopb.ca or cfinlay@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 *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador 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/>