

Draft

Policy Respecting Public Disclosure of Incidents

**Canada-Newfoundland and Labrador Offshore Petroleum Board
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1.0 INTRODUCTION

- 1.1** Operators are required to report all incidents to the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB). The *Incident Reporting and Investigation Guideline* (herein referred to as the Guideline) is in place to assist Operators with reporting requirements. Incidents are defined in the Guideline.

The C-NLOPB seeks to promote transparency about incidents through the publication of incident information as follows:

- Incident Bulletins for serious incidents.
- Quarterly safety incident reports; and
- Hydrocarbon spills, including liquid and gaseous spills, and unauthorized discharges.

1.2 Incident

The Guideline defines an incident as:

“Any event that caused or, under slightly different circumstances, would likely have caused harm to personnel, an unauthorized discharge or spill or an imminent threat to the safety of a marine installation or structure, passenger craft, vessel or aircraft. It also includes any event that impairs the function of any critical equipment.”

2.0 PURPOSE

2.1 Objectives

The intent of this policy is to meet the following objectives:

- Enhance transparency and accountability by providing clarity to the public on the basis for disclosure of information related to incidents reported to the C-NLOPB.
- Provide C-NLOPB staff with direction related to public disclosure of incidents.
- Establish roles and responsibilities for the disclosure of such information.

2.2 Public Interest

Publication of information about incidents is in the public interest for the following reasons:

- Information about incidents that occur may be otherwise unavailable to the media and the public. This may adversely affect public trust in the Operator, who has responsibility for reducing risk to as low as is reasonably practicable, and in the regulator, who has oversight responsibility.
- Improved information about incidents on each of the installations will improve the work of the offshore workplace committees and help prevent similar occurrences.

- Workplaces can be made safer through an informed public, media and stakeholders (safety associations, universities, unions, etc) who engage in informed discussions about workplace safety issues and advocate for improved safety.
- Disclosure of incident information by the C-NLOPB based on Operator provided information will prevent or correct false information and speculation when news of an incident originates from non-authoritative sources.
- Incident disclosure confirms that the regulator is informed of an incident and it provides the public with an opportunity to follow-up with the C-NLOPB or the Operator.
- All workplace parties (including employers, supervisors, employees, providers of service and suppliers) will be made aware of all incidents that are reported to the C-NLOPB such that they can review their own operations and request further information from the Operator or industry stakeholders with the goal of reducing other incidents.
- Researchers interested in offshore safety will have access to information that would not be easily accessible otherwise.
- Increased transparency leads to enhanced accountability of all interested and involved parties.

3.0 SCOPE

This policy relates to the publication of information about incidents on the C-NLOPB's website to be posted on a quarterly basis and to the issuance of Incident Bulletins when deemed in the public interest.

4.0 AUTHORITY

Refer to Appendix A for the Authority of the C-NLOPB to release information about incidents.

5.0 COMMUNICATIONS APPROACH

5.1 Information Assessment

The C-NLOPB receives notification of incidents or events in a manner as prescribed by the Guideline. Information provided by the Operator is assessed at the time it is received. Depending on the nature of the incident or event, additional follow-up with the Operator may occur. The first priority for the C-NLOPB is to assess the Operator's actions in relation to ensuring the health and safety of personnel and reducing the risk to the environment.

Written notifications are received from Operators for all incidents or events that are reportable to the C-NLOPB. Written notifications are circulated to members of the management team and C-NLOPB Officers.

5.2 Incident Bulletin

An Incident Bulletin is intended for public distribution and contains preliminary information about serious incidents as reported to the C-NLOPB by Operators.

Following the initial assessment of an incident and receipt of the written notification, an Incident Bulletin may be posted for the serious incidents listed in Section 5.3 of this policy. This decision will be taken by the Chief Executive Officer (CEO), in consultation with the CSO and/or CCO, as per the *Accord Acts*.

Following written notification from the Operator, the C-NLOPB will post an Incident Bulletin no later than the end of the next business day.

Approval of the CEO, or designate, is necessary before the Incident Bulletin can be posted to the website. A copy of the Incident Bulletin will be sent to C-NLOPB Board members, government contacts, Operator contacts and C-NLOPB staff in advance of it being posted to the website. It is the C-NLOPB's expectation that Operator contacts will disseminate the Incident Bulletin within their organizations, including Workplace Committees. Once posted, the public will be alerted through the C-NLOPB's Twitter account. At times, the C-NLOPB may decide to share an Incident Bulletin with other Canadian petroleum regulators and/or the International Regulators Forum, subject to the information disclosure provisions in the *Accord Acts*.

5.3 Serious Incidents Resulting in the Issuance of an Incident Bulletin

In accordance with Section 5.2, the following types of incidents are considered serious incidents for which an Incident Bulletin may be issued:

- (a) all occupational related fatalities which occur onboard a marine installation or structure or passenger craft;
- (b) a missing person from a marine installation or structure or passenger craft;
- (c) a major injury as defined by the Guideline or a serious injury to an employee, as defined in Section 10(1) of the *Newfoundland and Labrador Occupational Health and Safety Regulations*;
- (d) a fire or explosion which results in injury to personnel, impairment to critical equipment, requires activation of fixed fire suppression systems or otherwise poses a threat to the health and safety of personnel;
- (e) a collision which results in an injury to personnel, spill or unauthorized discharge, or impairment to critical equipment;
- (f) a loss of well control as defined by the Guideline;
- (g) a major hydrocarbon release as defined by the Guideline;
- (h) an unauthorized discharge of synthetic based mud and non-hydrocarbon substances exceeding 1000 litres (not including water content, where available/applicable);
- (i) a Spill of crude oil exceeding 25 L;
- (j) a Spill of oil, other than crude oil or synthetic based mud, exceeding 100 L;
- (k) an implementation of emergency response plans in response to an imminent threat to the safety of personnel, the safety of the marine installation or structure or the environment; or
- (l) an incident where a fatality or major injury was narrowly avoided.

5.4 Notices of Non-Compliance and/or Orders to Comply

When the CSO and/or CCO issue Notices of Non-Compliance and/or Orders to Comply, these will be posted publicly no later than the end of the next business day, in accordance with the information disclosure provisions of the *Accord Acts*.

5.5 Quarterly Publication of Safety Incidents

The C-NLOPB will also publish information relating to incidents reported by Operators on its website on a quarterly basis. This information will be presented in a tabular format and will include:

- The date the incident occurred
- The name of the Operator
- The name of the Installation
- The actual and potential classification of the incident
- A brief description of the incident
- Injuries, if any

Quarterly safety incident reports will be compiled and formatted for the website by the Safety Department in consultation with Public Affairs. Reports shall be reviewed and approved by the CSO and CEO prior to publication.

5.6 Publication of Environmental Incidents

Hydrocarbon spills that are equal to or under one litre, gaseous spills and unauthorized discharges are reported in aggregate on a quarterly basis on the C-NLOPB website. Each hydrocarbon spill over one litre is reported on the website within 24 hours or the next business day, after receipt of the written notification.

5.7 Media Inquiries

Inquiries from the media for additional information will be initially directed to the responsible Operator. If the C-NLOPB is not satisfied with the Operator's response to media inquiries, it will keep the public appropriately informed.

6.0 POLICY REVIEW

Review of this policy shall be done on an annual basis by Public Affairs, the CSO, CCO and CEO or designate, in consultation with Legal Services.

7.0 OTHER CONSIDERATIONS

7.1 Private and Privileged Information

- Some information provided by Operators in incident reports may be considered privileged and cannot be disclosed by the C-NLOPB without the permission of the Operator, as per the information disclosure provisions of the *Accord Acts*.
- Caution will be taken to ensure private or privileged information (e.g. information that will identify an individual, disclose medical information or constitutes a trade secret) is not included in information intended for public disclosure.

7.2 Amended Operator Reports

- Initial reports from Operators may be amended when new information is received or circumstances change. For example, an incident initially reported as a minor injury (sprained ankle) may later be reclassified as a major injury (broken ankle) following further onshore medical assessment.
- The C-NLOPB will issue an Incident Bulletin for reclassified incidents, if the reclassification falls under Section 5.3.
- The C-NLOPB will issue an updated quarterly incident report if there are changes to classifications or other information provided for the previous quarter.

APPENDIX A: LEGISLATION

The following legislative excerpts taken from the federal version of the legislation are relative to this policy:

Privilege Provisions

119(2) Subject to section 18 and this section, information or documentation provided for the purposes of this Part or Part III or any regulation made under either Part, whether or not such information or documentation is required to be provided under either Part or any regulation made thereunder, is privileged and shall not knowingly be disclosed without the consent in writing of the person who provided it except for the purposes of the administration or enforcement of either Part or for the purposes of legal proceedings relating to such administration or enforcement.

Information Not to be Disclosed (Part III.1)

205.084 Subject to sections 205.087 to 205.089, no person shall — except for the purposes of this Part, for the purposes of a prosecution under this Part, for the purposes of Part III as it relates to safety or for the purposes of a prosecution under Part III that relates to safety — disclose the results of (a) activities carried out by or on the order of a health and safety officer for the purpose of verifying compliance with this Part; or (b) activities carried out under a warrant issued under this Part.

Non-disclosure of identity (Part III.1)

205.085 Subject to section 205.088, no individual to whom information obtained under this Part is communicated in confidence shall disclose the identity of the individual who provided it except for the purposes of this Part, and no individual who obtains such information in confidence is competent or compellable to disclose the identity of the individual who provided it before any court or other tribunal except by order of the court or tribunal on any terms and conditions that the court or tribunal considers just.

Non-disclosure of trade secrets (Part III.1)

205.086 (1) Subject to subsections (2) and 205.088(1), trade secrets that become known to a health and safety officer who enters a place under subsection 205.073(3), or to an individual accompanying or a person assisting the officer, are privileged and shall not be disclosed except for the purposes of this Part, or for the purposes of Part III as it relates to safety.

Information on hazardous products and materials (Part III.1)

(2) Information that, under the Hazardous Materials Information Review Act, a person is exempt from disclosing under paragraph 205.022(d) or (e) or under paragraph 13(a) or (b) of the Hazardous Products Act, and that is obtained by a health and safety officer who enters a place under subsection 205.073(3), or by an individual accompanying or a person assisting the officer, is privileged and, despite the Access to Information Act or any other Act or law, shall not be disclosed to any other person except for the purposes of this Part, or for the purposes of Part III as it relates to safety.

Disclosure by the Board (Part III.1)

205.089 Despite section 119, the Board may, after consulting with the Chief Safety Officer, disclose information under its control that relates to this Part — other than information relating to the medical history of an identifiable individual or other prescribed information relating to an identifiable individual, an individual's identity the disclosure of which is restricted under section 205.085 or information the disclosure of which is restricted under section 205.086 — if the Board is satisfied that the public interest in making the disclosure clearly outweighs any potential harm resulting from the disclosure.