Marine Liability and Compensation
Who Pays for an Oil Spill in Canada and Beyond?

Office of the Administrator of the Ship-source Oil Pollution Fund
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The Ship-source Oil Pollution Fund

Unlimited compensation available to claimants

Nearly 500 claims paid since 1989
$4.5 million
Largest-ever direct claim payout

$217.86
Smallest-ever claim

Most claims are for under $50,000
The Independent Administrators

Anne Legars, Administrator
Appointed 2016

Mark Gauthier, Deputy Administrator
Appointed 2018
Claims Manuals

http://sopf.gc.ca/?page_id=543
Other Key Publications

http://sopf.gc.ca/?page_id=9911

http://sopf.gc.ca/?page_id=309

https://sopf.gc.ca/?page_id=13033
“Ship” doesn’t just mean large vessels and tankers.

All kinds of ship and boat are covered.
“Mystery” spills are also compensable.
An oil spill is not required.
Compensable Damages Overview

- Preventive measures
- Clean-up costs
- Costs for reinstatement of the environment
- Property damage
- Economic loss
- Fisheries losses
- Tourism losses
- Loss of subsistence living

*Bear in mind, the Administrator can only reimburse for reasonable costs and expenses.*
Claims Process Overview

1. OIL POLLUTION DAMAGE

2. SUBMIT YOUR CLAIM
   - Submit your paper or electronic claim.
   - A claim should include:
     - Description of the incident
     - Receipts or proof of payment for costs or expenses
     - To be on the safe side, submit your claim within two years of the incident.
   - A fast-track process is available for claims of $35,000 or less.
   - Submit your claim within one year of the incident.

3. ASSESSMENT
   - Here is what we are looking for:
     - Was the incident caused by oil pollution from a ship or a boat?
     - What actions did you take? Why? How much damage did you suffer?
     - How much did you spend? Was that amount reasonable?
     - Have you provided proof?

4. OFFER & COMPENSATION
   - You have 60 days to accept the Administrator’s offer or appeal it in court.
   - We will pay the amount offered plus interest.
   - If you are not paid in full, we provide the reasons for any reductions.

5. RECOVERY
   - Once we pay you, we take all reasonable measures to recover from the shipowner or other responsible person.

- Canada’s regime is based on the principle that owners are responsible for oil pollution caused by their ships and boats — this is the polluter pays principle.
Up to $50 million in advance response funding available to the Department of Fisheries and Oceans (i.e., the Canadian Coast Guard) in the event of a significant incident.
The Fund’s West Coast Activities
Over the past five fiscal years, 81 of the 141 total claims (57%) we received came from British Columbia.

We have compensated claimants on 73 of those 81 BC files.

We have seen successful subrogated recovery on 9 of those.

Many of our BC files remain open, with very limited prospects for recovery.
Of our 9 BC recoveries, 4 involved insurers.

Three of those files stemmed from the same incident, involving a foreign-flagged bulk carrier in English Bay.

The fourth stemmed from a fishing vessel fire.
We know the importance of preparing for transboundary and large-scale incidents on the compensation side:

Participation in Transboundary Liability and Compensation (TLC) meetings and exercises.

Recent Memorandum of Understanding with large international insurers.

Close collaboration with the International Oil Pollution Funds (IOPC Funds).
Recent Court Cases: Appeals from Our Compensatory Decisions
The owner of the only vessel involved in a ship-source oil pollution incident cannot recover its response costs from the Fund.

*Haida Tourism Limited Partnership (West Coast Resorts) v Canada (Ship-source Oil Pollution Fund), 2022 FC 1249, appeal pending before the FCA. [The West Island 395]*
The two-year limitation period for direct claims to the Fund applies where the evidence shows that a discharge of any volume of oil probably occurred, even where there is no direct evidence of a discharge.

*Canada v Canada (Ship-source Oil Pollution Fund), 2022 FC 1310. [The Stelie II and the Miss Terri]*
Questions?

Don’t hesitate to contact us at info@sopf-cidphn.gc.ca

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