

# SPILL RESPONSE MANAGEMENT: PROPERTY DAMAGE



The Canadian Compensation Regime for ship-source oil pollution damage is based on the “polluter pays” principle and is supported by international conventions. Under these terms, the polluter is always liable for paying the costs of an oil pollution incident, including costs for clean-up, monitoring, preventative measures, reinstatement measures and third-party damages. In a ship-source oil spill, liability and compensation for property and other damage are governed by the *Canada Shipping Act* and the *Marine Liability Act*.

## HOW CAN I FILE A CLAIM?

Canada’s Ship Source Oil Pollution Fund (SOPF) is the primary source of compensation for Canadians who have suffered quantifiable economic loss or property damage because of an oil spill in Canadian waters.

Claims for pollution damage resulting from an incident can be submitted directly to the SOPF, following the process outlined [on their website](#) in the “Filing a Claim” section. You can also contact the SOPF directly at [info@sopf-cidphn.gc.ca](mailto:info@sopf-cidphn.gc.ca) or 1-613-991-1726.

If you anticipate making a claim, good record keeping is crucial to the successful recovery of costs and expenses. The claim documentation should clearly set out what was done and why, where and when it was done, by whom, with what resources and for how much.



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## WHERE DOES THE MONEY COME FROM?

In the event of a tanker spill, the liability and compensation for pollution damages is governed by a multi-tier international regime—regardless of if the oil was carried as cargo or fuel. Any individual, business, municipal or provincial authority in Canada that has experienced ship-source oil pollution damage can claim compensation from the regime. This includes damage to personal or business property, or economic losses suffered by businesses, such as fishing, aquaculture or tourism.

### Tier 1: Ship Owners' Liability

In the case of a spill of crude oil (as cargo), fuel oil, or bunker oil (which is used as fuel for ships' engines) from tankers, the *International Convention on Civil Liability for Oil Pollution Damage* (1992 CLC) and the *International Convention on Civil Liability for Bunker Oil Pollution Damage* (2008) make the ship owner liable. Both conventions are governed under the auspices of the International Maritime Organization. Under both conventions, the limit of liability depends on the size of the ship and is backed by compulsory insurance. If the amount of damages exceeds the ship owner's liability, international and domestic funds provide additional compensation.

Under this tier, claims are made against the ship owner's insurer. When an incident occurs, the responsible party will contact their insurer and information on the compensation and claims process will be made available to the public.

### Tier 2: The International Oil Pollution Compensation (IOPC) Funds

Canada is a member of the IOPC Funds, which administers two international compensation funds for oil pollution damages caused by persistent oil spilled from tankers. The principal role of IOPC Funds is to pay compensation to those who have suffered oil pollution damage in a member IOPC Funds country, and who cannot obtain full compensation for the pollution damage from the ship owner's insurer.

The first IOPC fund is the 1992 Fund Convention and the second is the Supplementary Fund Protocol, which was adopted in 2003. Both funds are financed by the oil industry and managed by government, and each is structured as an intergovernmental organization. Both funds hold levies collected from entities that receive certain types of oil in the sea ports of a member country. Contributions are based on the amount of oil received in the relevant calendar year, and cover expected claims as well as the costs of administering the IOPC Funds.

The governing bodies of the IOPC Funds are comprised of member states and meet twice each year to make decisions on compensation payments, policy and budgetary matters, including the amounts to levy in contributions.

#### Who can make a claim with IOPC Funds?

Under this tier, claims can be made by individuals, partnerships, companies, private organizations or public bodies, including provinces or local authorities. For more information on filing a claim and compensation, visit the IOPC Funds [website](#).

#### What is covered under IOPC Funds?

Oil pollution incidents typically give rise to several different types of pollution damage claims, including property damage, costs of on-water and on-shore cleanup operations, economic losses caused by disruption to business, and costs for reinstatement of the environment.

To be entitled to compensation, the pollution damage must result in an actual and quantifiable economic loss that can be verified with detailed accounting records and other relevant supporting documentation and evidence, including the damaged property itself.

#### How does the IOPC Funds process work?

Claims are assessed according to criteria established by the governments of IOPC Funds member states. In most cases, claims can be sent directly to the offices of the IOPC Funds. They can be reached through their [website contact form](#) or at +44-20-7592-7100.

Claimants should submit their claims as soon as possible after the damage has occurred. If a formal claim cannot be made in the immediate aftermath of an incident, claimants should notify the Funds as soon as possible of their intention to present a claim at a later stage. According to the 1992 CLC, claims must be made within three years of the date when the damage occurred. Claimants should also notify the IOPC Funds as soon as they suffer losses as the Funds may be able to assist in mitigating against future losses.

The Funds, normally in co-operation with the ship owner's insurer, usually appoint experts to monitor clean-up operations, investigate the technical merits of claims and to make independent assessments of the losses.



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### Tier 3: The Ship-Source Oil Pollution Fund (SOPF)

Canada created the SOPF in the early 1970s from levies it collects from oil cargo companies. SOPF covers claims for oil spills of any type of oil, from any type of ship, anywhere in Canada or Canadian waters. As Canada's national fund, SOPF was established to serve claimants and is not limited to sea-going tankers. It covers spills of persistent oil, petroleum, fuel oil, sludge, oil refuse and oily waste.

Any person or business may file a claim with SOPF respecting oil pollution loss, damages, costs or expenses regardless of if they have first tried to file a claim with the ship owner's insurer or with IOPF Funds. The SOPF also provides compensation in the event compensation from the ship owner and IOPF Funds is insufficient to meet all established claims.

#### **Who can make a claim with SOPF?**

Any person or business in Canada that has sustained quantifiable economic loss or damage to property, or incurred costs and expenses, as a result of an oil pollution incident may file a claim.

More information regarding eligibility, the claims process, information requirements, and claims presentation and settlement can be found on the [SOPF website](#). You can also contact the SOPF directly at [info@sopf-cidphn.gc.ca](mailto:info@sopf-cidphn.gc.ca) or 1-613-991-1726.

#### **What is covered under SOPF?**

If your property has been damaged in a ship-source oil spill, compensation is payable for reasonable costs of cleaning, repairing or replacing property that has been contaminated by oil.

This includes any reasonable preventative measures taken to prevent or minimize pollution damage in the aftermath of a spill.

To be entitled to compensation, the damage must result from actual or anticipated oil pollution and have caused a quantifiable economic loss. The claimant must be able to show the amount of his loss or damage by producing accounting records or other appropriate evidence.

#### **How does the SOPF process work?**

Claims for pollution damage resulting from an incident or anticipated incident can be submitted directly to the SOPF. If damage has occurred, a claim must be made within two years after the day on which the oil pollution damage occurred. If no oil pollution damage occurred, but preventative measures were taken in anticipation of oil spill damage to private property, a claim must be made within five years after the day on which the incident occurred or was expected to occur.



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#### **Sources**

IOPC Funds | [iopcfunds.org](http://iopcfunds.org)  
SOPF | [sopf.gc.ca](http://sopf.gc.ca)  
Transport Canada | [tc.gc.ca/eng/marinesafety](http://tc.gc.ca/eng/marinesafety)