

MEMBER ALERT



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ENVIRONMENTAL POLLUTION FINES IN TURKEY

Your Managers have been advised of a new, 2016 pollution fine tariff for Turkey. Pollution incidents taking place between January 1, 2016 and December 31, 2016 will attract fines calculated as follows:

- 1) Pollution from petroleum tankers and those carrying derivatives (raw petroleum, fuel oil, bilge, oil mud, refined products, oil waste etc.)

Up to 1,000 (inclusive) gt	81.78 TRY /per gt
Between 1,000 and 5,000 (inclusive) gt	Additional 20.40 TRY /per gt
Over 5,000 gt	Additional 1.96 TRY /per gt

- 2) Dirty ballast discharged to sea by tankers

Up to 1,000 (inclusive) gt	61.32 TRY /per gt
Between 1,000 and 5,000 (inclusive) gt	Additional 12.23 TRY /per gt
Over 5,000 gt	Additional 1.96 TRY /per gt

- 3) Pollution from ships and other sea vessels that release petroleum derivatives (bilge, oil mud, freight mud, fuel oil, oil waste or dirty ballast)

Up to 1,000 (inclusive) gt	40.87 TRY /per gt
Between 1,000 and 5,000 (inclusive) gt	Additional 8.14 TRY /per gt
Over 5,000 gt	Additional 1.96 TRY /per gt

- 4) Garbage and sewage discharged to sea by vessels or any other sea vehicles

Up to 1,000 (inclusive) gt	20.40 TRY /per gt
Between 1,000 and 5,000 (inclusive) gt	Additional 4.03 TRY /per gt
Over 5,000 gt	Additional 0.77 TRY /per gt

If the polluting vessel discharges any hazardous substances or waste into the sea, the fine will be calculated at 10 times the published rate for the category of oil or petroleum derivatives fines. Should a ship repeat the pollution offense within three years, the fine amount for the second offense will be doubled, and fines imposed for each subsequent offense will again be doubled.

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The violation of environmental pollution laws and regulations in Turkey carries significant fines. Violations are, moreover, very difficult to challenge as the authorities do not need to substantiate their allegations, thereby placing the burden of proving innocence on the vessel owner or operator.

Under the relevant code, the Turkish environmental authorities are entitled to ask for cash settlement of the fine and generally will not accept any form of security to release a ship. On an exceptional basis, the authorities may accept a bankers' draft and/or payment on guarantees issued by the ship's agents and payable within a maximum of 1 to 2 days, and without any conditions.

In some cases, the authorities have agreed to release vessels against a letter of undertaking issued by a P&I club or insurance company recognized by the Turkish government. However, the authorities' demand for the original letter of undertaking with its notarized official translation has led to considerable delays to vessels in some cases.

The pollution fine amount may be reduced by 25% if settled immediately, something which will also allow a vessel to sail. Remitting the fine amount will not be considered as an admission of liability and an appeal may still be lodged before the Administrative Court within 30 days of the fine's notification date. However, appealing the fine decree will not result in the lifting of the arrest order of the vessel. Generally, the prospects of success in appeal proceedings are weak.

In order to prevent or minimize the possibility of pollution fines, Members are encouraged to implement suitable measures on their vessels and consider the following recommendations while in Turkish waters or ports:

- De-ballasting operations should be avoided unless the ballast water has been checked and confirmed to be clean.
- All overboard discharge valves should be closed and secured/sealed in closed position.
- All deck scuppers should be plugged and any gaps in the fish plate surrounding the deck should be closed.
- Washing of decks and superstructures should be avoided, if possible.
- Treated water from the sewage system and grey water should be transferred to a holding tank and should not be discharged until the vessel is outside Turkish waters, and in accordance with applicable laws and conventions.
- Cargo residues, cargo space cleaning residues, all garbage and other substances should not be disposed of in Turkish waters.
- The vessel's hull should not be scraped, chipped or painted while alongside the pier or at anchor.
- While the vessel is at a Turkish shipyard or dry dock, even if the pollution is caused by the negligence of the shipyard, its employees or agents, the ship may be held vicariously liable for the pollution fine. Therefore, the crew members should exercise care and should immediately issue a letter of protest to the relevant shipyard.

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- Members should familiarize themselves and comply with local regulations, which may be stricter than MARPOL regulations. P&I insurance cover for pollution fines responds only to the accidental escape of a pollutant from the vessels, and not in occurrences of operational discharge due to misconstruction of local rules.

In the event of the Turkish authorities putting a vessel on notice of a potential pollution fine, Members are urged to contact the Managers and the local P&I correspondent immediately for assistance.

Your Managers would like to thank their correspondent, Messrs. Metropole Maritime & Trading Ltd. Co., Istanbul, for its assistance on this topic and for providing the information upon which this Alert has been based.