

MEMBER ALERT



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ENVIRONMENTAL POLLUTION FINES IN TURKEY: AN UPDATE

A revised Pollution Fine Tariff has come into effect as of January 1, 2022. In the event of sea pollution events, fines may be levied by the Turkish Environmental Protection Agency (EPA) or by local Harbor Masters.

Pollution fines levied by the EPA

Fines apply both to individuals (real persons) and triple in values for fines levied on legal entities (e.g., shipowners and disponent shipowners) as follows in Turkish Lira (TRY):

Tonnage (GT)	Individuals	Legal Entities
Pollution from petroleum tankers and derivatives (raw petroleum, fuel oil, bilges, oil mud, refined product oil waste, etc.)		
Up to 1,000 GT	901.56 TRY/GT	2,704.68 TRY/GT
Between 1,000 and 5,000 GT	225.40 TRY/GT	676.20 TRY/GT
More than 5,000 GT	22.53 TRY/GT	67.59 TRY/GT
Dirty ballast discharged to sea by tankers		
Up to 1,000 GT	164.26 TRY/GT	492.78 TRY/GT
Between 1,000 and 5,000 GT	32.77 TRY/GT	98.31 TRY/GT
More than 5,000 GT	5.20 TRY/GT	15.60 TRY/GT
Pollution from ships and other vehicles that release petroleum or petroleum derivatives (bilge, oil mud, freight mud, fuel oil, oil waste or dirty ballast)		
Up to 1,000 GT	450.78 TRY/GT	1,352.34 TRY/GT
Between 1,000 and 5,000 GT	90.16 TRY/GT	270.48 TRY/GT
More than 5,000 GT	22.53 TRY/GT	67.59 TRY/GT
Garbage and sewage discharged by sea or any other sea vehicles		
Up to 1,000 GT	225.40 TRY/GT	676.20 TRY/GT
Between 1,000 and 5,000 GT	45.08 TRY/GT	135.24 TRY/GT
More than 5,000 GT	22.53 TRY/GT	67.59 TRY/GT

Notes:

- (1) Fine amounts for the above categories shall be doubled and tripled for repeat offenders for any recurrences of pollution within three years for the same vessel.
- (2) If the hazardous substances and wastes are disposed to the sea, the fines will be calculated at ten times the amounts calculated for pollution from petroleum tankers.
- (3) If the vessel eliminates the pollution by its own means, the fine levied will be 1/3 of the stated amounts above.

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Members are entitled to lodge an appeal to any fines before an administrative court within 30 days of the fine's notification date. However, appealing the fine will not result in lifting of a fined vessel's arrest order and appeals have a low probability of success.

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 an offending ship. On an exceptional basis, the authorities may accept bankers' drafts and/or payment guarantees issued by the ship's agents, payable within a maximum of 1-2 days and without any conditions.

In previous cases, the authorities released vessels against a letter of undertaking (LOU) issued by a P&I club or insurance company recognized by the Turkish Government. However, the authorities' demand for the original LOU with its notarized official translation led to considerable delays to vessels.

It is significant to note that the pollution fine amount may be reduced by 25% if settled immediately, which would also allow the 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 and the prospects of success in appeal proceedings are very slim.

Pollution fines levied by Harbor Masters

If vessels do not follow local port sea pollution regulations, the Harbor Master has the right to penalize offending vessels with administrative fines between 500 TRY and 20,000 TRY. Any incident requiring application of emergency response actions or emergency services due to collisions, breakages, fires, explosions or similar incidents causing damage or sea pollution, the Harbor Master has been given the right to impose an administrative fine against the offending vessel up to 5,000,000 TRY.

Members are entitled to lodge an appeal to any fines before an administrative court within 15 days of the fine's notification date. However, appealing the fine will not result in lifting of a fined vessel's arrest order and appeals have a low probability of success.

Members are recommended to pay any fines within the appeal period in order to benefit from a 25% discount of the fine to enable the vessel to sail without delay. If fines are not paid, the vessel can be sold at auction by relevant authorities to recuperate the pollution fines.

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Recommendations

- 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 superstructure 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.
- 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 a vessel, and not in cases where a violation arises due to misinterpretation or operational breaches of local rules.

If the Turkish authorities assert a violation by a vessel which might lead to pollution fine, Members are urged to contact the Managers and the local P&I correspondent immediately for assistance.

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