

MEMBER ALERT



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ENVIRONMENTAL POLLUTION FINES IN TURKEY

A revised Pollution Fine Tariff is coming into effect in Turkey for 2019.

Under the new Tariff, pollution incidents taking place between January 1 and December 31, 2019 will be subject to fines calculated *per gross ton* as per the below table. There is a very significant increase in the quantum of fines being applied by the Turkish Environmental Protection Agency against offending vessels. The pollution fines are separated between vessels owned by private individuals as opposed to companies. Notably, corresponding fine amounts are a minimum 3 times and maximum 14 times higher than previously applied rates for vessel-owning companies depending on the type of vessel and the pollutant.

CATEGORIES	GT	PREVIOUS FINE AMOUNT (2018)	CURRENT FINE AMOUNT (2019)		
			FOR PRIVATE INDIVIDUALS	FOR COMPANIES	INCREASE FOR COMPANIES
1- Pollution from petroleum tankers and derivatives (raw petroleum, fuel oil, bilge, oil mud, refined product oil waste etc.)	1,000	97,200.00 TRY	400,000.00 TRY	1,200,000.00 TRY	12x
	2,500	133,560.00 TRY	550,000.00 TRY	1,650,000.00 TRY	12x
	5,000	194,160.00 TRY	800,000.00 TRY	2,400,000.00 TRY	12x
	10,000	205,760.00 TRY	850,000.00 TRY	2,550,000.00 TRY	12x
2- Dirty Ballast discharged to sea by tankers	1,000	72,880.00 TRY	72,880.00 TRY	233,640.00 TRY	3x
	2,500	94,690.00 TRY	94,690.00 TRY	284,070.00 TRY	3x
	5,000	131,040.00 TRY	131,040.00 TRY	393,120.00 TRY	3x
	10,000	142,640.00 TRY	142,640.00 TRY	427,920.00 TRY	3x
3- Pollution from ships and other sea vessels that release petroleum derivatives (bilge, oil mud, freight mud, fuel oil, oil waste or dirty ballast)	1,000	48,580.00 TRY	200,000.00 TRY	600,000.00 TRY	12x
	2,500	63,085.00 TRY	260,000.00 TRY	780,000.00 TRY	12x
	5,000	87,260.00 TRY	360,000.00 TRY	1,080,000.00 TRY	12x
	10,000	98,860.00 TRY	410,000.00 TRY	1,230,000.00 TRY	12x
4- Garbage and sewage discharged to sea by vessels or any other sea vehicles	1,000	24,240.00 TRY	100,000.00 TRY	300,000.00 TRY	12x
	2,500	31,410.00 TRY	130,000.00 TRY	390,000.00 TRY	12x
	5,000	43,360.00 TRY	180,000.00 TRY	540,000.00 TRY	12x
	10,000	47,860.00 TRY	230,000.00 TRY	690,000.00 TRY	14x

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 3 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 entail significant fines and are 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 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 generally the prospects of success in appeal proceedings are very slim.

Members are encouraged to implement measures in regard to their vessels to obviate the possibility of fines, and to 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 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.

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- 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.

In the event that 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.