



CANADA' S OIL SPILL PREPARDENESS, RESPONSE & PREVENTION REGIME

Comments submitted by the Shipping
Federation of Canada (09-14-2012)



Executive Summary

As a precursor to commenting on the present state of Canada's ship source oil spill prevention, preparedness and response regime, we have reviewed the number of incidents in which authorities or response organizations had intervened over the past 10 years, and found that over 25 percent of the 133 cases did not involve any pollution at all. Indeed, most of the incidents were linked to fishing vessels or older derelict ships, with ocean vessels accounting for a total of 73 mt of oil spill (of which 64 mt belonged to a single vessel). As indicated by these figures, Canada's regime has worked and worked well.

We have also identified a vast number of marine safety regulatory measures that are already in place to ensure the safe transport of oil, and suggested the implementation of additional measures such as the employment of "wave rider" buoys in ports where oil is transported by ship, and the mandatory carriage of AIS transponders by fishing and pleasure craft.

As the volume of oil carried on several Canadian routes has increased, so too has the operational safety of the tankers carrying this cargo. Navigational technologies, safety management procedures, and the training of shipboard and shore personnel have also undergone a significant evolution in terms of safety and effectiveness. It is important that the government acknowledge the foregoing, and foster public awareness that our oil spill preparedness, prevention and response regime is world class in every way. Communication to the general public of the effectiveness of Canada's oil spill regime would ease concerns in many parts of the country.

Our view is that the existing ship source oil pollution regime, which is privately funded and operated, should remain as is. The present ship source oil pollution compensation funds are adequate to cover any spills over and above the costs covered by the vessel's insurance – approximately \$1.5 billion per spill.

Industry (Canadian shippers and receivers, along with international ocean shipping) is the regulated body and provides its own response regime under the Canada Shipping Act 2001 and Transport Canada governance. This should not change. The federal government's role is to ensure the regime in place continues to be effective. The provinces should be involved in response exercises and can contribute by providing opportunities for public awareness of the regime. It should also be noted that the Canada – U.S. Joint Pollution Plans may be impacted by a Canadian review of its regime.

Finally, any planned revisions to the regime should be scientifically supported. Pilot projects and testing of hypothesis should be conducted by scientists to ensure that new proposals will have the desired effect.

History of Ship Source Oil Interventions in Canada

To properly identify and measure the degree of the problem of ship source oil pollution in Canada, we reviewed the annual reports of the Ship Source Oil Pollution Fund. These reports provided a

general overview of the cases that required intervention from the authorities and/or response organizations in terms of either preventing or cleaning up ship source pollution in Canada. We found that over a ten year period beginning in 2002 and ending in 2012:

- There were 133 such cases, with no pollution occurring in over 25% of these cases;
- The fund made payments in 87 cases, of which 33 payments were under \$11,000 and only 9 were over \$100,000;
- In most cases. the spill occurred when the ship was in port;
- Most of the cases involved fishing vessels, older, derelict ships or bunkering incidents;
- Ocean vessels (our members) accounted for a total of approximately 73 mt of fuel oil spilled over the ten year period, of which 64 tons occurred on one ship during bunkering activities.

In most cases, the quantity spilled is not specified and there is only a mention that some oil was released or that there was an oil sheen.

Past experience has shown that the response capacity is adequate.

Question 1:

What measures should be in place to ensure the safe transport of oil products from Canada's East Coast Ports?

This question addresses prevention, not only for ships but also for oil handling facilities, ports and waterways. Some of the marine safety regulatory measures that are already in place include:

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| <ul style="list-style-type: none"> • Reliable charts/publications and navigational aids • Waterways management • Passage planning • Traffic separation schemes • Port procedures • Certified handling equipment • Procedural checklists for safe operations • ISM (International Safety management) • JIGGs (Joint Industry Government Guidelines) • LRIT(Long Range Identification Tracking) • AIS (Automated Identification System) | <ul style="list-style-type: none"> • Port State Control • Coasting Trade licenses • Port and terminal Emergency Response Plans • Vessel SOPEP • Certification of marine personnel • Marine pilotage • Navigational and collision avoidance technology • Regulated vessel construction • Regulated vessel certification and insurance • OPRC Convention • Classification Societies |
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From a ship's perspective, the regulatory measures that are currently in place have proven to effectively prevent marine oil spills. However, it is important to ensure a high level of compliance with these measures. A scientific approach must be employed to determine whether there is a direct cause and effect relationship between enhanced compliance and enhanced spill prevention.

When considering the "safe transport of oil", it is important to note that the most vulnerable operations are those which involve loading and discharging cargo, particularly with respect to the connection and disconnections of hoses or loading arms.

Are improvements or changes to Canada's existing marine safety regulatory measures required?

Although we believe that the existing regulatory measures are adequate, we also believe that any process can be improved and suggest that the following measures be considered in this respect:

- To improve information about environmental conditions that mariners have at their disposal, environmental data could be made available to port authorities, ships and oil handling facilities through the use of Wave Rider buoys, capable of providing such data at the entrances to ports where oil is transported by ship.
- Given the significant role that the mandatory carriage of AIS has played in avoiding collisions, consideration should be given to requiring mandatory carriage of AIS transponders by smaller ships such as fishing vessels and pleasure craft.

Question 2:

Is the current oils spill response regime adequate for current volumes of oil exports? Is it adequate for possible growth in oil exports from the East Coast? What, if any additional measures need to be put in place to ensure a robust response to any oil spill in Canadian waters?

The current prevention, preparedness and response regimes are adequate. Increased exports of oil do not change the response capacity. Locations and high risk points may change if increased marine traffic moves through new ports. However, the regime addresses prevention and preparedness as well as response.

The present regime was designed with volume of traffic as risk criteria and for this reason there is a (Geographic Area of Response) GAR at Sept-Iles.

The measures that ensure a timely and robust response are the agility, professionalism and preparedness of those who participate in the regime. This includes the readiness of the Oil Spill Response Organization (RO) and the Regional Environmental Emergency Team (REET). It is worth

noting that the ROs are periodically recertified and tested and monitored for preparedness according to the Response Plan.

Although oil volumes have increased on several routes, the tankers carrying this oil have also improved significantly, as have navigational technologies, safety management procedures, and the training of shipboard and shore personnel.

To ensure the continuation of a robust regime, the government needs to be positive about the regime we have and foster public, political, and governmental awareness of the regime.

Question 3:

How should the cost of any enhancements to the oil spill response regime be covered? What obligations do producers and shippers of oil products have to maintain a world-class oil spill response regime?

The existing ship-source oil pollution regime is privately funded and operated and should remain so. The taxpayer's contribution should be limited to ensuring that the regime's regulations are enforced and that Canada fulfills its international obligations arising from the relevant IMO Conventions. In the event of an oil spill, the regulator's role of monitoring the response is recoverable from the polluter. This current policy of a privately funded and operated regime should not change. The producers and shippers / receivers are the payers because it is they who cause the ships to carry oil in Canadian waters. The polluter is the ship or the OHF and they accept their obligations under that umbrella.

International ship-source oil pollution compensation regimes cover ships to approximately \$1.5 billion per spill.

The social license to trade in this country obliges oil producers, carriers, shippers and receivers to maintain a world-class preparedness and response regime. The Certified Response Organizations are profit-making corporations rather than not-for-profit corporations. As long as they support themselves and repay their debt to shareholders, there is little incentive for the majors to back out of the regime. It is important to remember that the regime is built to provide response to spills from ships and oil handling facilities only.

The record shows that there is no need to enhance the ship source oil pollution regime as far as ship-source spills are concerned.

Question 4:

What would be considered be considered a robust liability and compensation regime for oil pollution damages?

International compensation regimes cover ship source spills only to approximately \$1.3 billion per spill plus the spill coverage of the Ship Source Oil Pollution Fund SSOPF of about \$250 million. The Canadian Government does not pay Canada's contribution to the international regimes; it is funded by the SSOPF which was collected from Canadian receivers of oil. This has proven to be a robust regime.

Question 5:

What role should industry play as opposed to government? Is there a role for the provinces?

Industry (the marine transportation industry and the Canadian shippers and receivers of oil cargo) is the regulated body and provides its own oil spill response regime under the Canada Shipping Act 2001 and Transport Canada governance. This should not change, nor should the regime's recognition that it is the "potential polluter" who is responsible for cleaning up marine oil spill pollution.

The role of government is to ensure that adequate prevention, preparedness and response is in place and that these continue to be operational, functional and effective. This particular regime was put into place in the 1990's in response to the Brander-Smith Report and the adoption of the OPRC Convention, and has worked well ever since. In the meantime, oil spills from tankers have declined with the introduction of a new fleet of double hulled vessels, as well as dGPS, ECDIS, AIS, modern communications and more reliable electrical and mechanical systems. In response to Question 1, we made suggestions as to how carriage and inspection enhancements may improve public and regulatory confidence in the regime, and this can only be done by government.

Support for research and development in the field of spill response and factual and pilot project testing of prevention measures should be fostered by government and the results made known.

As far as ship-source oil pollution is concerned, the provinces need to be aware of and take part in oil spill response exercises, and many do participate. One feature that is still vague is the allocation of response space and disposal space for recovered oil, which is a provincial matter. Furthermore, the awareness of coastal communities and the inclusion of oil spill response into their emergency response plans (if they have one) is not universal, although it should be. The provinces can provide access to coastal communities, municipalities and associations which can help with efforts to increase public awareness of the regime.

As far as ship-source oil pollution is concerned, it is worth noting that the Canada - US Joint Pollution Plans might be impacted by a Canadian review of its regime. Canada and the US recently initiated a Regulatory Cooperation Council (RCC) with a view to harmonizing regulatory requirements where possible. There are vast differences in the regimes and Canada definitely has the right model.

Question 6:

Other Comments

Any revisions to the regime should be scientifically supportable. Pilot projects and testing of hypotheses should be conducted by scientists to ensure that any proposals have the desired effect.

The inclusion of other partners and stakeholders such as pipelines and oil producers would seriously change the dynamics and require a new governance structure within government.

The total capacity of the existing regime has never been tested by an oil spill incident and this attests to the robustness of the prevention part of the regime. 99.998% of cargoes carried by ships are delivered intact. If enhancements to the regime are designed to address 0.002% of the risk, then we have to ask what the acceptable level of risk is.

Equipment and response personnel have been successfully cascaded to respond to oil spills, not all of them ship source, in areas with low populations and limited accessibility.

The existing regime works. It is cost effective. The polluter is responsible for the cost of response. In developing new ports and frontiers, the government **must insist on preparedness** to deal with an oil spill on water. Marine oil pollution preparedness may be enhanced by:

- Appropriate placement of icebreakers and mandatory icebreaker escort requirements in certain ice infested waters, as is the case with the Confederation Bridge;
- Re-establishment of REET oil spill response exercises with municipal and public participation;
- Constant readiness of Canadian government vessels and aircraft to be able to monitor / manage spill response;
- Exercise of Canada's Places of Refuge regime;
- Provision of waste reception facilities.

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requirements where possible. There are vast differences in the regimes and Canada definitely has the right model.

- Communication of the effectiveness of Canada's world class oil spill response regime to the general public would go a long way to improve the public's image of the business of oil transportation.
- Since the inception of the regime, navigational and engineering technology aboard ships has radically improved. At the inception of the regime, GPS had only just been discovered and e-mail with ships at sea was still in its infancy. A whole new generation of tankers is now at work providing energy to the world more reliably than ever.

We trust that these comments are helpful and would be pleased to provide any additional information that may be required.