

 Australian Government
Australian Maritime Safety Authority

Managing Claims for Un-attributable Spills


Matt Johnston
Manager, Marine Environment Standards
AMSA



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Presentation Outline

- Australia's Claims Regime
- Un-attributable Bunkers Spill
- Un-attributable Oil Tanker Spill
- Spill from an Unknown Source

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Australia's compensation regime

- Shipping (AMSA)
- Offshore oil and gas (NOPSEMA)
- Potential polluter pays - the cost of preventing pollution or of minimising environmental damage due to pollution should be borne by those responsible


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Polluter Pays

Spill Preparedness


Shipping – Protection of the Sea Levy on commercial shipping

Offshore petroleum – Titleholders fund arrangements to meet their specific risks

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Protection of the Sea Levy

- 11.25 cents per net registered ton per quarter
- Applies to ships >24 metres length entering an Australian port carrying more than 10 tonnes of oil in bulk as fuel or cargo
- \$10 million pollution response reserve, \$40 million line of credit

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Polluter Pays

Spill Response & Recovery

Shipping - implementation of relevant international conventions

Offshore petroleum - Commonwealth waters - provisions of the Offshore Petroleum and Greenhouse Gas Storage Act 2006

No polluter?

- Both shipping and offshore petroleum regimes premised on the spill being *attributable*
- What if the 'polluter' cannot be identified?
- Un-attributable spills...
 1. Bunkers
 2. Oil tanker cargo
 3. Unknown source

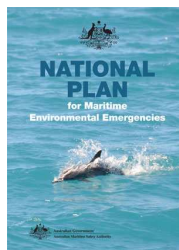


1. Un-attributable bunker spill

- International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (the "Bunkers Convention")
- Commonwealth *Protection of the Sea (Civil Liability) Act 1981* requires ships of 400 or more gross tons and less than 1,000 gross tons carrying oil as cargo or bunkers to have appropriate insurance in place

National Plan

- A national integrated government and industry organisational framework enabling effective response to marine pollution incidents and maritime casualties



National Plan Claims Management Guidelines

- A State/NT maritime administration should use their best endeavours to recover all reasonable costs incurred ...
 - ...including, to the extent it is practicable to do so, the institution of criminal or civil proceedings for recovery from the owner or the master of the ship which caused any pollution

National Plan Claims Management Guidelines

- A State/NT report needs to provide sufficient information to support any claim for reimbursement submitted to AMSA
- A comprehensive report with supporting documentation is required in order to assist the Authority determine the reasonableness of the actions taken and associated costs

National Plan Claims Management Guidelines

- What?** Summary of events, including a description and justification of the work carried out on water, in coastal waters and on shore, together with an explanation of why the various working methods/response options were selected, supporting advice/ opinions from technically qualified third parties
- When?** Dates/times when decided, implemented, terminated
- Where?** Delineation of the area affected, describing the extent of the pollution and identifying those areas most heavily contaminated, eg maps or nautical charts, supported by photographs, videos
- By whom?** Government agencies, ports, industry, contractors, volunteers, military
- How much?** Detailed list, supporting documentation, eg receipts and tax invoices

2. Oil tanker

- International Oil Pollution Compensation (IOPC) Funds
- Where it can be demonstrated that a “mystery spill” of persistent oil originated from an oil tanker, the IOPC Fund Convention may meet response costs



3. Spill from Unknown & Un-attributable Source

- Golden Beach ‘mystery spill’, Gippsland, Victoria, March 2014
- Crude oil
- 23 km coastline
- Ship, Platform, or Natural Seepage?



Unknown Source Spill - Policy Response

- National Plan Strategic Coordination Committee (NPSCC)
- Spills from Unknown Sources Working Group
- Joint investigation guidelines

Conclusion

- Potential Polluter Pays
- Bunkers, Tanker, Unknown-Source Spill
- Comprehensive Claims and Investigations
- Collaboration & Cooperation