

Oil Pollution Act*

33 U.S.C. §§2701-2761

Liability

Each party responsible for a vessel or facility from which oil is discharged, or which poses a substantial threat of an oil discharge, into or on navigable waters, adjoining shorelines, or the exclusive economic zone, is **liable** for removal costs and damages specified under the OPA. [OPA §1002(a)] Section 1001(32) defines “**responsible party**.” Section 1002(b)(1) defines “**removal costs**.” Recoverable damages include natural resource damages (recoverable by four classes of trustees); damages to real and personal property (recoverable by the owner or lessee of the property); loss of subsistence use of natural resources (recoverable by subsistence users of the resources); loss of tax and other revenues and increased costs of public services (recoverable by federal, state, and local governments); and loss of profits or earning capacity (recoverable by any claimant). [OPA §1002(b)(2)] Section 1009 provides for contribution actions.

Defenses to liability include acts of God; acts of war; and acts or omissions of third parties (other than employees, agents, or parties in contractual relationships with responsible parties). [OPA §1003(a)]

Discharges excluded from liability include discharges allowed by federal, state, or local permits; discharges from public vessels; and discharges from onshore facilities subject to the Trans-Alaska Pipeline Authorization Act. [OPA §1002(c)]

Limitations on liability include: (for tank vessels) the greater of \$1,200 per gross ton or \$10 million if the vessel exceeds 3,000 gross tons, or \$2 million if the vessel is less than 3,000 gross tons; (for nontank vessels) the greater of \$600 per gross ton or \$500,000; (for offshore facilities) all removal costs plus \$75 million; and (for onshore facilities and deepwater ports) \$350 million. [OPA §1004(a)] The owners or operators of offshore Outer Continental Shelf facilities, or vessels carrying oil as cargo from such facilities, may be liable for all government removal costs resulting from a discharge or substantial threat of a discharge from such facilities or vessels. [OPA §1004(c)(3)] Liability limitations do not apply if the discharge was proximately caused by the responsible party’s gross negligence or willful misconduct, or by a violation of applicable federal safety, construction, or operating regulations. Liability limitations do not apply if the responsible party fails or refuses to report the incident as required by law, to cooperate with responsible officials, or to comply (without sufficient cause) with an administrative or judicial order issued under FWPCA §311(c) or (e) or the Intervention on the High Seas Act. [OPA §1004(c)]

Statute of limitations

Damage claims must be filed within three years after a loss is reasonably discoverable with the exercise of due care or (in the case of nature resource damage claims) within three years after completion of a natural resource damage assessment. [OPA §1017(f)]

Oil Spill Liability Trust Fund

The Fund may be used to pay federal and state government removal costs; natural resource trustees’ damage assessment and restoration plan implementation costs; removal costs and natural resource damages resulting from oil discharges from foreign offshore facilities; uncompensated removal costs and damages; and federal administrative, operational, and personnel costs of implementing, administering, and enforcing the OPA (subject to specified dollar limits). All such amounts (except the federal administrative, operational, and personnel costs) must be consistent with the national contingency plan. [OPA §1012(a)] Section 1013 sets forth procedures for claims against the Fund.

Financial responsibility

Section 1016 sets forth financial responsibility requirements for parties responsible for offshore facilities, deepwater ports, vessels over 300 gross tons using any place subject to U.S. jurisdiction, and vessels using the exclusive economic zone to lighter or transship oil destined for a place subject to U.S. jurisdiction.

Removal actions

Section 4201 (amending FWPCA §311) requires the President to ensure the effective and immediate removal of oil discharges, and the mitigation or prevention of substantial threats of oil discharges.

Penalties

Section 4301 (amending FWPCA §311) sets forth **administrative and civil penalties**. Section 4302 (amending 46 U.S.C. §2302) sets forth **criminal penalties**.

Contingency planning, licensing, construction, and operation requirements

Title IV (amending 33 U.S.C. and 46 U.S.C.) sets forth merchant mariner licensing and vessel construction and operation requirements. Section 4202 (amending FWPCA §311) provides for national response units, Coast Guard strike teams, Coast Guard district response groups, area committees, area contingency plans, and individual vessel and facility response plans.