



International Oil Pollution
Compensation Funds

Fonds internationaux
d'indemnisation pour les
dommages dus à la pollution
par les hydrocarbures

Fondos internacionales
de indemnización de daños
debidos a contaminación por
hidrocarburos

ESTABLISHING A SYSTEM FOR THE SUBMISSION OF OIL REPORTS

This information sheet has been written with the aim of assisting government employees to fulfil their government's responsibilities for the submission of oil reports under the 1992 Fund Convention and Supplementary Fund Protocol.

WHAT ARE OIL REPORTS?

Contributions to the 1992 Fund and the Supplementary Fund (the IOPC Funds) are paid by persons in Member States of the IOPC Funds who receive more than 150 000 tonnes of contributing oil in a given calendar year ('**contributors**'). In order for the IOPC Funds to issue invoices to these contributors, every Member State is obliged to submit reports on receipts of contributing oil ('**Form for reporting contributing oil**').

WHAT IS CONTRIBUTING OIL?

Contributing oil is defined in Article 1.3 of the 1992 Fund Convention and means crude oil and heavy fuel oil. A list of oils which qualify as contributing or non-contributing oil can be found on the last page of the **Form for reporting contributing oil**.

WHY DOES MY STATE HAVE TO SUBMIT OIL REPORTS?

Article 15.2 of the 1992 Fund Convention states that each year, every State that has ratified the 1992 Fund Convention shall report to the Director the name and address of any person in that State who is liable to contribute to the Fund, as well as the relevant quantities of contributing oil received. If your State is also a Member of the Supplementary Fund, the reports you submit will also be considered as a report under Article 13.1 of the Supplementary Fund Protocol.

In practice, this means that each State must submit either:

- (a) a Form for reporting contributing oil for each individual contributor in that State; or
- (b) if there are no persons in that State liable to pay contributions, a Nil declaration form.

WHEN DO OIL REPORTS HAVE TO BE SUBMITTED?

Information on persons liable to pay contributions to the IOPC Funds should be submitted when depositing an instrument of ratification, as set out in Article 29 of the 1992 Fund Convention and Article 20 of the Supplementary Fund Protocol.

Once the Convention has entered into force for that State, the Secretariat will write to the responsible government authority annually on 15 January requesting the reports for the previous calendar year.

According to the Internal Regulations of the IOPC Funds, the reports must be submitted by **30 April** each year, using a **Form for reporting contributing oil** or a **Nil declaration form**. Both forms are available online under the Oil Reporting and Contributions Section at the IOPC Funds' website (www.iopcfunds.org) and the Online Reporting System front page (<http://oilreporting.iopcfund.org>).

The Online Reporting System (ORS) allows States to electronically provide data on contributing oil receipts and to access historical data and contact details of contributors. The IOPC Funds' governing bodies have endorsed the ORS system to eventually replace the paper forms, although for now they remain mandatory for all States. The portal to log in to the ORS is at <http://oilreporting.iopcfund.org> and States that are not already registered to use it should contact the Secretariat at oilreporting@iopcfunds.org to open an account.

HOW DO I IDENTIFY POTENTIAL CONTRIBUTORS?

Potential contributors include all companies and entities that have received more than 150 000 metric tonnes of contributing oil in a given calendar year. Company or entity includes any individual or partnership, any public or private body, whether corporate or not, and a State or any of its sub-divisions, such as provinces or agencies.

However, a report should also be submitted for any individual entity that received less than 150 000 tonnes of contributing oil in a given calendar year if it forms part of a group of 'associated' companies or other entities which together received more than 150 000 tonnes of contributing oil in the same State in that year. 'Associated' means any subsidiary or commonly controlled entity. Whether or not an entity is associated shall be determined by the national law of the State concerned.

The vast majority of contributing oil is received directly by sea and so the process of identifying potential contributors should focus on the ports and sea terminals in your State. Other government ministries and agencies may be able to assist you in this regard and you may also find it useful to contact any industry organisations in your State which represent the oil or shipping industries. Some States have found that organising workshops or seminars can be of great assistance in helping potential contributors to understand and fulfil their obligations under the IOPC Funds.

Under certain circumstances, contributing oil can be received by means other than directly by sea. These circumstances are set out in the notes to the **Form for reporting contributing oil** and you should study this carefully in order to determine whether any of these circumstances apply in your State. In particular, reports must be submitted in respect of contributing oil which has been received by sea in a non-Member State of the IOPC Funds and then transported into your State by other means of transport (e.g. by pipeline, non-sea-going barge, road or rail transport).

WHAT IF THERE ARE NO CONTRIBUTORS IN MY STATE?

If no contributors are identified, your State should complete a **Nil declaration form**, which can be downloaded from the Oil Reporting and Contributions Section at the IOPC Funds' website (www.iopcfunds.org). The form can be filled out electronically, printed and then signed by the government authority before it is sent to the IOPC Funds' Secretariat. Such a declaration should only be submitted if you are certain that no persons in your State are liable to contribute to the IOPC Funds. Nil declarations can also be entered on the ORS (<http://oilreporting.iopcfund.org>), however the paper forms remain mandatory for now.

WHAT DO I NEED TO CONSIDER WHEN ASKING CONTRIBUTORS TO COMPLETE THE FORM FOR REPORTING CONTRIBUTING OIL?

The Form for reporting contributing oil should be filled out electronically, printed and then signed by the oil receiving company or entity and then sent to the government authority for counter-signature before it is submitted to the IOPC Funds' Secretariat. If the State is registered to use the ORS, the information should also be entered online by the nominated user(s) before submitting the report form(s).

Contributors should be reminded by the government authority to complete oil reports well in advance of the deadline of 30 April each year in order to give them enough time to complete the forms correctly and they should be provided with a contact point so that any questions can be answered quickly. Setting an early deadline for contributors will allow sufficient time for you to check the forms before sending them to the IOPC Funds by 30 April. You should monitor the responses by contributors carefully to ensure that they have all responded and issue reminders as appropriate.

WHY DO I NEED TO VERIFY THE OIL REPORTS?

It is the government's responsibility to ensure that the reports which are submitted to the IOPC Funds are complete and correct. That means ensuring that:

- (a) the reports submitted by individual contributors are correct; and
- (b) the total quantity reported by contributors in your State is correct.

HOW CAN I ENSURE THAT THE REPORTS SUBMITTED BY INDIVIDUAL CONTRIBUTORS ARE CORRECT?

Based on experience, Member States have identified the following common errors that form a useful checklist for Authorities collecting the reports:

- (a) Have the 'Member State' and 'Oil Year' fields been completed correctly?
- (b) Has the contributor completed its contact details clearly and correctly?
- (c) Is the quantity of contributing oil reported reasonable? Common mistakes include:
 - reporting the quantity in barrels or litres, instead of tonnes;
 - including non-persistent oil, such as petroleum or gasoline, as well as crude oil and heavy fuel oil;
 - reporting quantities of oil which have been exported rather than imported;
 - failing to report oil which has been received after coastal transport within the State; and
 - failing to report oil.
- (d) Has the report been signed by a competent officer of the company or other entity? This is important because the company will be liable to pay contributions to the IOPC Funds based on the information in the reports.

You should also consider carrying out a detailed audit of a proportion of your contributors each year to ensure that their reports are accurate. This involves meeting with representatives of the company concerned and making sure that you understand the procedures which it has followed in order to compile data for the report. You may want to request documentation, such as a spreadsheet showing how the quantity reported has been calculated, and to check a sample of individual receipts by that company.

If an audit is not feasible for your State, you can check the total quantity reported against both national and international sources of energy statistics, such as those produced by the International Energy Agency or the Joint Organisations Data Initiative, in order to ensure that there are no major discrepancies and/or that these can be accounted for.

WHAT ACTION SHOULD I TAKE IF CONTRIBUTORS FAIL TO SUBMIT REPORTS OR SUBMIT INCORRECT REPORTS?

The action that you take will depend upon your national legislation, in particular the way in which your State has implemented the 1992 Fund Convention. Under Article 15.4 of the 1992 Fund Convention, if the IOPC Funds suffer a financial loss because a State has not fulfilled its obligations with regards to oil reports, that State shall be liable to compensate the Funds for such loss.

Additionally, at its April 2016 session, the 1992 Fund Assembly adopted Resolution N°12 - Measures in respect of outstanding oil reports and outstanding contributions. In accordance with Resolution N°12, the non-submission of oil reports may have consequences for Member States' claims for compensation from the 1992 Fund and/or render a Member State ineligible for election to the 1992 Fund Executive Committee. The full text of Resolution N°12 is available on the Document Services website (<http://documentservices.iopcfunds.org>).

For Supplementary Fund Members, the non-submission of reports on contributing oil may lead to the denial of compensation for pollution damage, in accordance with Article 15, paragraph 2 of the Supplementary Fund Protocol.

WHAT SHOULD I DO NEXT?

Once you are satisfied that the reports are complete and correct, you should ensure that they are signed by a competent officer on behalf of the government and return them to the IOPC Funds. The reports should be accompanied by a letter drawing attention to any relevant points, such as:

- any outstanding reports;
- any contributors for which reports are not required, indicating the reason; and
- any significant changes in quantities compared with previous reports, indicating the reason.

If you do not have all the reports to send, it is better to send the reports that you do have before the 30 April deadline and inform the Secretariat about your plans to submit the remainder.

HOW CAN I GET HELP OR ADVICE WITH THIS PROCESS?

The Secretariat of the IOPC Funds will be pleased to provide you with any help or advice that you need in connection with the submission of oil reports. Please contact:

Sarah Hayton, Oil Reporting Administrator

Tel: +44 20 7592 7125

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Email: oilreporting@iopcfunds.org
