

# **Ship-source Oil Pollution Fund**

Special Examination Report – 2015

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## Special Examination Opinion

To the Minister of Transport (“Minister” or “Minister’s delegate”) and to the Administrator of the Ship-source Oil Pollution Fund

### Our Opinion

1. In our opinion, based on the criteria established, there is reasonable assurance that during the period covered by the examination, from July 2014 to October 2014, there were no significant deficiencies in the Ship-source Oil Pollution Fund’s (“SOPF”) systems and practices that we selected for examination. The Ship-source Oil Pollution Fund has maintained these systems and practices in a manner that provides it with reasonable assurance that assets are safeguarded and controlled, resources are managed economically and efficiently, and operations are carried out effectively.

### Findings that support the opinion

2. **Governance.** We found that the SOPF has in place the key elements of a good governance framework that meets the expectations for sound management practices with respect to public stewardship, transparency, communications and responsible management.

3. **Risks, internal management, performance measurement and reporting.** We found that the SOPF has implemented controls, systems and practices to ensure sound management and monitoring of operations, while maintaining a balance between risk and available resources. However, we found some areas for improvement, specifically in the management of accounting records and succession planning.

4. **Claims process.** Overall, we found that the SOPF has systems and practices in place to ensure efficient and effective processing of claims submitted for compensation in compliance with the *Marine Liability Act* (MLA).

### Findings, recommendations, and responses

5. The next sections of this report provide an overview of the SOPF and more detailed information on our findings and recommendations. The SOPF agrees with all of the recommendations. Its detailed responses follow the recommendations throughout the report.

**What the Fund is required to do**

6. Under Part 7, section 120 of the *Marine Liability Act* (MLA), the Administrator shall cause books of account and records in relation to them to be kept; and control and information systems and management practices related to financial and management matters to be maintained. The Administrator is also required to ascertain that SOPF books, records, systems and practices are kept or maintained in a manner that provides reasonable assurance that assets are safeguarded and controlled; transactions are conducted in compliance with the Act; that financial, human, and physical resources are managed economically and efficiently; and that operations are carried out effectively.

7. Part 7, section 122 of the MLA also requires the Administrator to have a special examination of these systems and practices carried out at least once every five years, and at any additional times that the Governor in Council or the Minister may require.

**What is Marcil Lavallée responsible for**

8. Our responsibility is to express an opinion on whether there is reasonable assurance that during the period covered by the examination, from July 2014 to October 2014, there were no significant deficiencies in the SOPF's systems and practices that we selected for examination.

**Signature and date**

Chartered Professional Accountants, Licensed Public Accountants  
Ottawa, Ontario, Canada  
March 23, 2015

# Introduction

## Overview of Ship-source Oil Pollution Fund

### Role and mandate

9. The SOPF is a special account in the Accounts of Canada established under the authority of section 92 of the *Marine Liability Act* (MLA). It is the successor to the Maritime Pollution Claims Fund set up in the early 1970s. Its main source of income is the monthly payments of interest credited by the Minister of Finance to the SOPF pursuant to section 93 of the MLA.

10. The purpose of the SOPF is to pay compensation for oil pollution damage or anticipated damage caused by ships at any place in Canada, or in Canadian waters, including the exclusive economic zone of Canada. It also covers costs and expenses for response measures provided the measures and the costs are reasonable. Claimants can submit their claims to the owner of the ship, who is ultimately responsible for oil pollution caused by its ship. They may also submit their claims directly to the Administrator of the SOPF. On receipt of a claim, the Administrator is required to investigate it and, to the extent that he finds it to be established, make an offer of compensation to the claimant. If the offer is accepted and payment is made, the Administrator must take all reasonable steps to recover the amount from the owner or any other party that may be liable.

11. Canada is a member of two international funds, the purpose of which are to provide compensation for oil pollution damage caused by tankers, including costs and expenses for response measures. The 1992 Fund is set up under the 1992 Convention for the Establishment of an International Fund for Compensation for Oil Pollution Damage (1992 Fund). Canada is also a member of the Supplementary Fund, set up under the 2003 Supplementary Fund Protocol (Supplementary Fund). These Funds are financed by contributions from receivers of contributing oil in member states. In Canada, the Administrator has responsibility for collecting data on annual receipts of contributing oil for transmission to the Director of the International Oil Pollution Compensation (IOPC) Funds. The Administrator has the further responsibility to direct payment out of the SOPF of Canadian contributions to the IOPC Funds. Such contributions are calculated on the basis of oil receipts reported by the Administrator to the Director of the IOPC Funds.

**Nature of business and operating environment (how the SOPF fulfills its mandate)**

**12.** The main business activity of the SOPF consists of processing claims and pursuing recourse action, where available, to recover any compensation paid out of the Fund from owners of ships or other responsible parties. The Administrator relies on two marine consultants to assist in the investigation and assessment of claims, as well as other claims-related work. The Administrator may also retain other technical expertise, as needed. Since the Administrator deals with the government on an arm's length basis, he does not have access to the Department of Justice for legal advice and, consequently, hires lawyers from the private sector on an as needed basis, for example, if claims raise legal issues or require litigation, particularly in the realm of recourse actions.

**13.** Four full-time contract employees provide day-to-day administrative support. The Administrator also retains the services of an expert records and information management consultant to ascertain that the SOPF meets its legal requirements with respect to the *Access to Information Act* and the *Privacy Act* (ATIP) and the processing of claims and time limitation periods. The records and information management consultant also ensures that proper record-keeping systems and procedures are followed to safeguard the historical value of the SOPF file collection, to administer the sustainability of the newly implemented electronic record management system and to plan for future systems improvement.

**14.** The SOPF has a unique legislative framework, as it is not part of any schedules of the *Financial Administration Act* (FAA) and its employees are not covered by the *Public Service Employment Act*. The organization nevertheless strives to abide by the same rules as government whenever possible. The office of the Administrator relies mainly on private companies for pay and benefits services and workplace safety insurance. The office also relies on external service providers for information technology, Web site management and ATIP support because in most instances, the SOPF does not fall under the scope of the services that can be provided by other government departments or by Public Works and Government Services Canada (PWGSC).

**Statutory requirement to prepare annual reports**

**15.** At the end of each fiscal year, the Administrator must submit an annual report on the operations of the SOPF. The report must include the financial statements of the SOPF and the auditor's report on the financial statements as stated in the MLA. The report is tabled in the House by the Minister of Transport.

**16.** The SOPF is subject to the *Library and Archives of Canada Act* and the *Access to Information Act* and *Privacy Act*. The Administrator has the statutory obligation to submit two reports to Parliament every year (Annual Report on the *Access to Information Act* and Annual Report on the *Privacy Act*). The SOPF must also comply with Treasury Board directives and requirements with respect to access to information and privacy.

**Relationship with Transport Canada (roles and responsibilities)**

17. The Ship-source Oil Pollution Fund is part of the Minister of Transport's portfolio and reports to Parliament through the Minister of Transport. The Minister of Transport has been delegated the authority by the Minister of Finance to oversee the mechanism of payment in and out of the Fund. Although the SOPF operates at arm's length from the department, the organization has a Memorandum of Understanding (MOU) with Transport Canada that sets out the roles and responsibilities of each party and the services that Transport Canada provides to the SOPF on a cost recovery basis. The main services offered by the department are expenditure and corporate accounting.

18. The organization has grown exponentially since 2006 when the SOPF was made subject to the *Access to Information Act* and *Privacy Act* and subsequently to the *Library and Archives of Canada Act*. While the office was for many years staffed by a part-time Administrator, a part-time marine consultant and an executive assistant hired through a temporary employment agency, the office is now staffed by a part-time Administrator, two part-time marine consultants, one part-time records and information management consultant and four full-time contract employees.

**Current challenges**

19. Over the years, responsibilities have been added. This started with the SOPF becoming subject to the *Access to Information Act* and the *Privacy Act*, which required fundamental changes to the filing system, staffing and claims management. Another challenge that has had a considerable impact on the SOPF is the business of creating and maintaining a proper Web site.

20. The SOPF is being required to operate more like a government department, but is not one and does not have the tools to operate like one in certain administrative areas. After 2006, it was no longer possible to operate the SOPF with one part-time Administrator, a part-time marine consultant and an executive assistant from a temporary employment agency. The SOPF therefore developed a more permanent solution to retain certain key employees and ensure business continuity, outside the realm of the public service employment framework.

## Focus of the special examination

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**Objective**

**21.** Our objective for this audit was to determine whether the systems and practices we selected for examination at the SOPF were providing the Minister and the Administrator with reasonable assurance that assets were safeguarded and controlled, that resources were managed economically and efficiently, and that operations were carried out effectively. We selected systems and practices based on our assessment of risks in the following areas:

- Governance;
- Risks, internal management, performance measurement and reporting;
- Claims process.

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**Further details**

**22.** Further details on the audit objectives, systems and practices that we selected for examination, period of the audit, and criteria are provided in **About the Special Examination** at the end of the report.

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## Findings, Recommendations and Responses

### Governance

<b>Overall finding</b>	<p>23. We found that the SOPF has in place the key elements of a good governance framework that meet the expectations for sound management practices with respect to public stewardship, transparency, communications and responsible management.</p>
<b>Context</b>	<p>24. The SOPF is an organization that does not rely on a board of directors to oversee its mandate and activities. The SOPF is governed by a Governor in Council-appointed part-time Administrator who reports to Parliament through the Minister of Transport. The Administrator may work a maximum of 180 days during the year.</p> <p>25. The Administrator is responsible for the efficient and effective operation of the SOPF. The governance framework currently in place also allows for the appointment of a Deputy Administrator, although none is currently appointed. The Administrator must implement systems and practices to ensure that the mandate of the SOPF is achieved as required under the MLA.</p> <p>26. In recent years, the responsibilities of the SOPF have grown with increasing demands for compliance with new legislation (<i>Access to Information Act</i>, <i>Privacy Act</i> and <i>Library and Archives of Canada Act</i>) and increasing demands for more transparency and disclosure of information on publically accessible communication platforms such as the Internet.</p> <p>27. The Administrator participates in the Canadian delegation to meetings of two international funds (IOPC Funds), the purpose of which are to provide compensation for oil pollution damages caused by tankers, including costs and expenses for response measures. The Administrator also has responsibility to direct payment out of the SOPF to the IOPC Funds of Canada's contributions to the Funds.</p>

### Key elements of good governance were in place

<b>What we found</b>	<p>28. We found that the SOPF has in place the key elements of good governance.</p>
<b>Why this is important</b>	<p>29. Good governance ensures that the SOPF can achieve its mandate, meet its obligations and objectives as defined in the MLA and also comply with other legislative requirements, as previously identified. More specifically, the obligations of the MLA require the SOPF to maintain systems and practices in a manner that ensures that:</p> <ul style="list-style-type: none"> <li>▪ assets are safeguarded and controlled,</li> <li>▪ resources are managed economically and efficiently, and</li> <li>▪ operations are carried out effectively.</li> </ul>

**What we observed to support this finding**

**30. Roles and responsibilities.** The Administrator has established clearly defined roles and responsibilities among his staff. Responsibilities are delegated to the proper level of staff. Responsibilities for managing day-to-day activities have been delegated to the Director of Corporate Services to ensure continuity of operations at all times including when the Administrator is absent.

**31.** We found that the Administrator participates in the Canadian delegation to IOPC Funds' meetings as required, and we noted that Canada's contributions to the IOPC Funds are paid when required.

**32. Knowledge and expertise.** The Administrator has been performing his function and duties since December 2006 after working more than 40 years in maritime law in both the private and public sector. As such, he has the required experience, knowledge and expertise of the marine industry to assess claims received with due care. As a lawyer experienced in the development of Canadian and international maritime law, including the Canadian legislation that led to the establishment of the Ship-source Oil Pollution Fund, the current Administrator has the required professional background and knowledge to understand and apply the legal framework of the MLA.

**33.** In addition to the Administrator, a Director of Corporate Services and marine consultants have been in place for several years. They understand the operations of the SOPF and its mandate. They have played an important role in the implementation of administrative procedure manuals, information management systems, internal controls and management tools. As a result, their knowledge and experience enhance the internal control environment of the SOPF and allow for effective governance.

**34. Control environment.** The Administrator has established an adequate "tone from the top" with his staff in order to implement a culture of control in the execution of the SOPF's activities. Manuals have been developed to address the processing of claims, payroll, procurement and financial accounting activities. These guidelines are shared with staff and include specific controls, measures and activities that must be adhered to.

**35.** Security verifications are completed for all new hires and each one must sign a privacy policy acknowledgment agreement upon hiring.

**36. Communication.** The Administrator:

- completes an annual report that includes audited financial statements and makes it available to Parliament and on the SOPF Web site;
- completes and submits annual reports of compliance with *Access to Information Act* and *Privacy Act*;
- maintains communication with the Minister or the Minister's delegate.

**What we recommended**

**37.** We made no recommendation in this area.

## Risks, internal management, performance measurement and reporting

### Overall finding

**38.** We found that the SOPF has implemented controls, systems and practices to ensure sound management and monitoring of operations, while maintaining a balance between risk and available resources. However, we found some areas for improvement, specifically in the management of accounting records and succession planning.

### Context

**39.** The SOPF operates with limited resources. As already mentioned, in addition to the Administrator, the Fund is supported by two part-time marine consultants, one part-time records and information management consultant and four contract staff working full-time. Administrative support consists of a Director of Corporate Services, a Payroll and Finance Officer, a Multimedia and IT Support Officer and an Executive Assistant. The SOPF is also supported by the Expenditure and Corporate Accounting Directorate at Transport Canada for its accounting and cash management operations. The SOPF has negotiated a MOU with Transport Canada that sets out the roles and responsibilities of each party and the services that Transport Canada provides to the SOPF on a cost recovery basis. These include, but are not limited to, support for accounting and finance administration, technology and information management services and other matters.

**40.** The SOPF is not subject to the *Financial Administration Act* and as such, it cannot currently receive and manage funds provided by the Minister of Finance. As mentioned previously in the report, the Minister of Transport has been delegated the authority by the Minister of Finance to oversee what goes in and out of the Fund. A letter of delegation of this authority to perform payments in and out of this special account has to be signed by the Minister of Transport and the Administrator whenever there is a change in Minister of Transport or Administrator.

**41.** Over the years, the responsibilities of the SOPF have increased as the organization is being asked to run more like a government department without necessarily having access to the infrastructure (tools and resources) available to federal departments. These added responsibilities include but are not limited to:

- compliance with specific legislation as previously mentioned,
- the development of an organizational Web site providing relevant information for additional transparency and accountability to the public,
- the requirement to have a financial audit completed annually, and
- the requirement to have a special examination conducted once every 5 years.

## Sound practices for managing procurement and payment activities

<b>What we found</b>	42. We found that the SOPF has the controls, systems and practices required to ensure sound management of procurement and payment activities. We found that the process is controlled.
<b>Why this is important</b>	43. The SOPF handles a number of important procurement decisions and payment transactions in a given year. Such transactions include the issuance of financial settlements (payments) of established claims, the payment of IOPC Funds' contributions and the processing of regular acquisitions of goods and services required for the operations of the SOPF.
<b>What we observed to support this finding</b>	44. We examined a sample of expenditures incurred between April 2012 and October 2014. We found that expenditures are properly requisitioned, accounted for and approved by the Administrator. We found that all invoices from suppliers, for travel claims and for direct payment requisitions are reviewed and authorized by the Administrator before the disbursement is requisitioned to Transport Canada.
<b>What we recommended</b>	45. We made no recommendation in this area.

## Management of payroll and human resources activities

<b>What we found</b>	46. We found that the SOPF, given its small size and unique nature, has adequate systems and practices in place to ensure the efficient and effective management of its human resources activities. Furthermore, the SOPF has implemented an appropriate compensation framework for processing its payroll activities, maintaining staff continuity and ensuring the stability of its operations. In the assessment of claims for compensation, the Administrator relies on two marine consultants, as well as marine expertise in the field on an as needed basis, usually hired by counsel acting on behalf of the SOPF. We found that there are a limited number of people in Ottawa with marine expertise to investigate and assess claims.
<b>Why this is important</b>	47. The SOPF is not covered by the <i>Public Service Employment Act</i> . Therefore, the SOPF must develop, implement and manage its own human resource policies and compensation framework. The SOPF is neither a government department nor a Crown corporation. The legal framework governing the SOPF is set out in Part 7 of the MLA.  48. The SOPF depends largely on marine consultants for the assessment of oil pollution damage incidents. As technical experts, their expertise and knowledge are important to investigate and evaluate the claims received. It is important to have people with the right skills to carry out this type of work.
<b>What we observed to support this finding</b>	49. Although it does not fall within the human resource framework of the Public Service of Canada, we observed that the SOPF compares the reasonableness of its staff compensation to the compensation and

classification standard of the Public Service of Canada. The SOPF hires external consultants with professional experience in government classification to develop job descriptions and to assist in establishing compensation. It also obtains external and legal advice for implementing reasonable staff benefits and retirement savings contributions with the objective of ensuring retention and therefore stability and continuity of its operations.

**50.** We found that human resource files exist and are maintained. These files included signed employment contracts, job descriptions, annual salary review letters, attendance and leave, security clearance and signed acknowledgment of privacy policies.

**51.** We noted that the SOPF uses an external payroll service provider for managing payroll-related activities, which include paying staff, calculating source deductions and making payroll remittances to the Canada Revenue Agency. We noted that the payroll is approved and monitored regularly for any changes.

**52.** We found that the SOPF is currently relying on a limited number of marine consultants (2). We noted that the investigation and assessment of claims requires specific marine industry knowledge and expertise to evaluate claims. The SOPF indicated that there are a select number of legal firms and maritime consultants that have the technical knowledge and experience with maritime laws and with the marine industry. Marine consultants need to have a strong nautical background and extensive experience, found normally among senior marine officers, such as ship captains or nautical engineers, in performing technical surveys and assessments of damages sustained aboard ships. Marine consultants need to have a good understanding of pertinent regulations under the *Canada Shipping Act*, and consequently the *Marine Liability Act* and its application by the Administrator of the SOPF.

**What we  
recommended**

**53. Recommendation.** The Administrator should consider outside resources, such as local marine experts for the assessing of claims submitted to the SOPF for compensation as a way to overcome the lack of such expertise in Ottawa, which over time, could become a problem as that expertise disappears.

**SOPF response**

**54.** Agreed. The Administrator already engages, on a regular basis, local marine experts and legal counsel on the west coast (Vancouver) and has also done so, less frequently, on the east coast and in Quebec. He is conscious of the fact that there is a lack of people with marine expertise in the Ottawa area and is actively looking at improving the method of assessing claims such as relying more on that kind of expertise in the field, where more of it is available. In the last year, the Administrator has initiated contact with several marine experts in the various regions. His aim in future is to increasingly delegate the claims investigation and assessment work to local experts and to have a claims coordinator in Ottawa, working under the supervision of the Administrator, to coordinate the claims work.

## Management of accounting and reporting activities

<b>What we found</b>	<p>55. We found that the SOPF has the controls, systems and practices required to maintain an adequate accounting of its financial activities for ensuring timely access to financial information and reports for discussion. We also found that the SOPF is compliant with the reporting requirements of the MLA and the MOU with Transport Canada. However, we found inefficiencies due to the fact that the financial accounting of the SOPF is maintained in two separate accounting systems.</p>
<b>Why this is important</b>	<p>56. Under Part 7, section 120 of the <i>Marine Liability Act</i>, the Administrator is required to maintain an effective control environment over its financial resources while also ensuring that it can manage and access its financial information in a timely and effective way. It is important for the SOPF to maximize the efficiency of all human and financial resources involved and to limit any instances of ineffectiveness.</p>
<b>What we observed to support this finding</b>	<p>57. We noted that the SOPF maintains its books and records using off-the-shelf accounting software for in-house purposes while an accounting is also kept by Transport Canada because of the delegated responsibility from the Minister of Finance to oversee the mechanism of payments in and out of this account. The SOPF maintains its own accounting of transactions because it needs timely reporting and access to current financial information and validation of payments in and out of the Fund. As a result, there is duplication in both labour and costs given that the same accounting information is entered in two separate interfaces by two different organizations. We found that this method of operation was not efficient or cost effective considering that Transport Canada charges the SOPF for this accounting work on a cost recovery basis. In effect therefore the SOPF is paying for two accounting.</p>
	<p>58. We examined the various reports prepared and published by the SOPF. We found that the SOPF publishes its main operational results in an annual report as required and that such report is laid before Parliament by the Minister of Transport. The report contains information on the Canadian compensation regime, Canadian oil spill incidents, outreach initiatives, SOPF involvements in the International compensation regime and the SOPF financial statements. The public can access information on the number of claims received and processed along with detailed facts pertaining to each claim. The SOPF has made this information available on its Web site.</p>
	<p>59. We found that the SOPF discloses its travel and hospitality expenditures on its Web site.</p>
<b>What we recommended</b>	<p>60. <b>Recommendation.</b> The SOPF should work with Transport Canada to find alternative solutions to eliminate the duplication of accounting activities and costs.</p>
<b>SOPF response</b>	<p>61. Agreed. The Minister of Transport and the Administrator of the SOPF both have responsibility to oversee books and account of the SOPF. Operational and accounting costs at the SOPF have increased significantly</p>

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with the increasing demands on the organization, including the statutory requirement for the SOPF to have an annual financial audit. The SOPF has to work with the department to improve efficiency and cost effectiveness of its accounting operations. The SOPF cannot operate independently from the department because of the financial coding system in place. We will work with Transport Canada to find a mutually agreeable way to address duplication, streamline operations, reduce inefficiencies and operate more cost effectively.

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## Claims process

### Overall finding

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**62.** Overall, we found that the SOPF has systems and practices in place to ensure efficient and effective processing of claims submitted for compensation in compliance with the MLA.

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### Context

**63.** The SOPF's main purpose is to pay compensation for oil pollution damage and costs and expenses for response measures. The SOPF must follow the guidelines established by the MLA for the evaluation and payment of claims. The administration of claims is therefore a critical process.

**64.** In recent years, the SOPF has invested in the development of tools to strengthen the claims management process to ensure compliance with statutory requirements and time limitation periods.

## Effective management tools were implemented and claims were processed in compliance with the statutory requirements and within the time limitation periods

### What we found

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**65.** We found that the SOPF has in place effective management tools, systems and practices for processing claims received in compliance with statutory requirements.

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### Why this is important

**66.** Effective tools, systems and practices help ensure that the organization fulfills its mandate and complies with legislative requirements. The main purpose of the SOPF is the administration of claims received for oil pollution damage and costs and expenses for response measures. Effective tools, systems and practices ensure that:

- resources are managed economically and efficiently;
  - assets are safeguarded and controlled, and
  - operations are carried out effectively.
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### What we observed to support this finding

**67.** We found that the following key elements of control are in place:

- The Administrator has developed a detailed claim processing manual that serves as a working tool for marine consultants. This ensures that all claims subject to evaluation are treated fairly and consistently under the same guidelines and practices.

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- The SOPF has implemented an electronic information management database to track all claims received. The database allows the SOPF to know the status of a claim at all times since time-sensitive information is captured. This ensures that statutory requirements (including prescription periods) are monitored, that key steps are followed and that the required documentation is kept on file. It also ensures that all claims are administered in a timely and coherent manner.
  - On occasion, the SOPF dispatches a representative, either a marine consultant, a local maritime surveyor or legal counsel, to the site of incidents to assess the situation and report to the Administrator. This serves as factual evidence regarding the claim received. Marine consultants assessing claims rely on a cost chart to assess the reasonableness of rates and charges included in a claim. This chart also provides guidance on the number of people required to address cleanup activities. This helps ensure that claims are reasonable in the context of the incident and that costs are not overly inflated.
  - The marine consultants have been exercising their functions for a number of years. They have the necessary background, knowledge and expertise for assessing claims. This strengthens the control environment around the investigation and assessment of claims.
  - All claims processed by a marine consultant are subject to review and approval by the Administrator. The Administrator is the last point of control for decision-making on each claim.
  - On average, 13 new claims are received each year. Between 40 and 45 claims are handled by the Administrator during a given year. We tested a sample of claims received between April 2012 and March 2014. We observed that the claims are processed in compliance with the established framework and guidelines.
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**What we  
recommended**

**68.** We made no recommendation in this area.

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## Conclusion

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**69.** In our opinion, based on the established criteria, there is reasonable assurance that during the period covered by the examination, from July 2014 to October 2014, there were no significant deficiencies in the SOPF's systems and practices that we selected for examination. The SOPF has maintained these systems and practices in a manner that provides reasonable assurance that assets are safeguarded and controlled, that resources are managed economically and efficiently, and that operations are carried out effectively.

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## About the Special Examination

All of the audit work in this report was conducted in accordance with the standards for assurance engagements set out by the Chartered Professional Accountants of Canada (CPA) in the CPA Canada Handbook—Assurance.

We obtained management's confirmation that the findings reported in this report are factually based.

### Objective

Under Part 7, section 122 of the *Marine Liability Act* (MLA), the Administrator must arrange for a special examination to be carried out on the Ship-source Oil Pollution Fund once every five years, and at any additional times that the Governor in Council or Minister may require. Special examinations are a form of performance audit where the scope is set by the Minister and the Administrator.

The auditor provides an opinion on the SOPF's systems and practices examined. Special examinations answer the question: Do the SOPF's systems and practices provide reasonable assurance that assets are safeguarded and controlled, that resources are managed economically and efficiently, and that operations are carried out effectively?

A significant deficiency is reported when there is a major weakness in the SOPF's key systems and practices that could prevent it from having reasonable assurance that assets are safeguarded and controlled, that resources are managed efficiently and economically, and that operations are carried out effectively. The opinion for this special examination is found on page 1 of this report.

## Key systems and practices examined and criteria

At the start of this special examination, we presented an audit plan (included in the engagement letter) to the Minister’s delegate and to the Administrator. The plan identified the systems and practices and the related criteria that we considered essential to providing the Minister and the Administrator with reasonable assurance that assets are safeguarded and monitored, that resources are managed economically and efficiently, and that operations are carried out effectively. These are the systems, practices and criteria that we used for the examination.

These criteria were selected for this examination in consultation with the Minister’s delegate and the Administrator. They were based on our experience and knowledge of the subject matter. Management reviewed and accepted the suitability of the criteria used in the special examination.

Key Systems and Practices	Criteria	Systems and practices selected for examination
Governance	In fulfilling the Fund’s mission, mandate and operations, management has established an appropriate management/governance framework (i.e. delegation of authority, communication, hiring practices and policies, monitoring activities, etc.) that meets the requirements of the statutory control objectives in the execution of the mandate and ensures the required stewardship, accountability and communication with its stakeholders.	Management has established an adequate “tone from the top” whereby it has implemented a corporate philosophy and culture that is based on a strong internal control environment and ethical values [transparency, honesty, fairness, compliance with laws and regulations, and integrity (hiring and human resource policies, code of conduct, etc.)].
Risks, Internal Management, Performance Measurement and Reporting	Controls and systems implemented are operating effectively to achieve sound management and an effective balance between risks and available resources, while ensuring that the mandate of the Fund is fulfilled consistently and that the assets are properly safeguarded (i.e. payments are issued only on legitimate claims, etc.) The Fund also has performance measures for the achievement of its mandate and delivers accountability reports to its stakeholders as required; more specifically, the annual reporting to Parliament (Annual Report) is a complete and accurate reflection of the performance and activities of the Fund for the year.	We will examine that: <ul style="list-style-type: none"> <li>▪ Risks and challenges that affect or could potentially affect the Fund are identified and addressed, including succession planning given the specific nature of the knowledge and skills required for the execution of the mandate;</li> <li>▪ Stakeholders are provided reports in a timely manner regarding the activities of the Fund, as per legislation;</li> <li>▪ Measures have been implemented to ensure compliance with all legislative requirements under which the Fund is subject to including: <ul style="list-style-type: none"> <li>○ The <i>Marine Liability Act</i>;</li> <li>○ The <i>Access to Information Act</i>;</li> <li>○ The <i>Privacy Act</i>.</li> </ul> </li> <li>▪ The financial management (operations / administration / accounting) systems and practices of the Fund provide assurance that the Fund is operating effectively, efficiently and economically in its use of available resources.</li> </ul>

Key Systems and Practices	Criteria	Systems and practices selected for examination
Claims process	The Fund has systems and practices to ensure efficient and effective processing of claims submitted for reimbursement in compliance with the <i>Marine Liability Act</i> (MLA).	<p>We will examine that:</p> <ul style="list-style-type: none"> <li>▪ The Fund remains independent from all stakeholders in compliance with its governing statutes;</li> <li>▪ All claims are processed in accordance with the time limitation periods established by the MLA;</li> <li>▪ All claims received are processed in accordance with the MLA;</li> <li>▪ Stakeholders are informed of the requirements, obligations, limitations and role of the Administrator of the Fund;</li> <li>▪ The claims process which includes the investigation, assessment, payment of a claim and cost recovery action is substantiated by supporting documentation and application of a detailed methodology.</li> </ul>

### Period covered by the audit

The special examination covered the systems and practices that were in place between July and October 2014. However, to gain a more complete understanding of the main systems and practices, we also examined certain matters that preceded the start date of the special examination and that were in place between April 2012 and September 2014.

### Internal audit

In carrying out the special examination, we did not rely on any internal audits.

## Appendix

### List of Recommendations

The following is a list of recommendations found in this report. The number in front of the recommendation indicates the paragraph where it appears in the report. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p><b>Risks, Internal Management, Performance Measurement and Reporting</b></p> <p><b>53. Recommendation.</b> The Administrator should consider outside resources, such as local marine experts for the assessing of claims submitted to the SOPF for compensation as a way to overcome the lack of such expertise in Ottawa, which over time, could become a problem as that expertise disappears. (46-53)</p>	<p>Agreed. The Administrator already engages, on a regular basis, local marine experts and legal counsel on the west coast (Vancouver) and has also done so, less frequently, on the east coast and in Quebec. He is conscious of the fact that there is a lack of people with marine expertise in the Ottawa area and is actively looking at improving the method of assessing claims such as relying more on that kind of expertise in the field, where more of it is available. In the last year, the Administrator has initiated contact with several marine experts in the various regions. His aim in future is to increasingly delegate the claims investigation and assessment work to local experts and to have a claims coordinator in Ottawa, working under the supervision of the Administrator, to coordinate the claims work.</p>
<p><b>60. Recommendation.</b> The SOPF should work with Transport Canada to find alternative solutions to eliminate the duplication of accounting activities and costs. (55-60)</p>	<p>Agreed. The Minister of Transport and the Administrator of the SOPF both have responsibility to oversee books and account of the SOPF. Operational and accounting costs at the SOPF have increased significantly with the increasing demands on the organization, including the statutory requirement for the SOPF to have an annual financial audit. The SOPF has to work with the department to improve efficiency and cost effectiveness of its accounting operations. The SOPF cannot operate independently from the department because of the financial coding system in place. We will work with Transport Canada to find a mutually agreeable way to address duplication, streamline operations, reduce inefficiencies and operate more cost effectively.</p>