



Office of Spill Prevention and Response

Third Party Claim Process for Marine Oil Spill Cost Recovery Procedures for State and Local Government Agencies

The State of California Department of Fish and Game's Office of Spill Prevention and Response (OSPR) is the lead agency in responding to oil spills in marine waters of the state. Generally, the state and local government agencies perform removal actions under the direction of the Incident's Unified Command. Working within the Incident Command System (ICS) structure, OSPR can assist state and local agencies to recover their response costs.

Responsible Party Funds - In most cases, responsible parties are held liable for all damages and costs incurred as a result of an oil pollution incident. In the event a responsible party (RP) is designated and accepts financial responsibility to pay full spill response costs, state and local agencies should seek reimbursement directly from the RP. In some instances, these costs may be coordinated through OSPR.

Federal Funds - If the Federal Oil Spill Liability Trust Fund is opened to provide funds for a spill incident, the OSPR may function as Finance Liaison for State agencies. Local government agencies should seek reimbursement directly from the Federal On-Scene Coordinator (FOSC). Whenever the Federal Fund is opened, each state and local agency should immediately submit a Pollution Removal Funding Authorization Request (PRFA) to the FOSC.

Upon approval/authorization from the FOSC, the assisting Agency will provide a daily estimate of personnel & operating costs listing activities authorized by the Incident Command.

Reimbursement using the PRFA process usually results in full recovery of costs if proper documentation is complete.

For further information and forms, please refer to Annex C, Operational Administration, Appendix I, Spill Funding Procedures of the National Contingency Plan.

State Funds - If Federal Funds are not available, or will not be available in an adequate period of time, and a RP does not exist (or is unable or unwilling to provide adequate and timely cleanup), State of California Oil Spill Response Trust Fund may be accessed. This fund may be used to pay necessary costs for responding to, containing, and cleaning up the oil spill. State and local agencies should submit their invoices to the State of California Office of Spill Prevention and Response. If a claim is under \$50,000, the claim may be submitted directly to OSPR. If the claim exceeds \$50,000, it must be submitted to the federal fund prior to submission to OSPR.

Documentation Requirements - In order to recover costs, expenses must be properly documented to provide an accurate accounting of payments due. Furthermore, if litigation is required, documentation must be admissible in court. Documentation requirements will vary between responsible parties. If reimbursement is being sought from a RP, documentation requirements should be coordinated with the RP, discussed and agreed upon as early as possible in the response process.

Cost documentation should be completed as close to the time of activity as possible. When completed, the documentation should provide a complete and accurate audit trail for internal and external auditors so that compliance with applicable regulations, guidelines, and procedures can be verified. Documentation should, at a minimum, include the following:

Personnel Costs - Detail should include; name of employee, classification, activity/duty, hours worked, hourly salary and total costs for employee on a daily basis. These daily costs should be summarized to total the entire personnel costs of the billing period.

Operating Costs - Line-item or object detail should be provided on a daily basis, with a summarized total by billing period. Equipment usage costs should be detailed and include the hourly or daily usage rate of each item.

Each agency should provide adequate cost documentation to support each item of expense. For example; copies of signed employee time reports, and support for the hourly billing rates (how the rates were determined); copies of vendor invoices; and travel expense claims, including airline and rental care charges, per diem and mileage charges and per diem schedules.

Please contact Sandi Potstada at spotstad@ospr.dfg.ca.gov or Kelly Abe at Kabe@ospr.dfg.ca.gov with further questions or concerns.

Third Party Claim Process for Marine Oil Spill Cost Recovery Procedures for Private Entity

If a private entity is damaged as a result of the oil spill, the first avenue of reimbursement would be to follow the claims process established by the RP who will likely publish a toll free number for a larger spill. If there is no RP claims process available, it is advisable to file a claim with the National Pollution Fund Center (NPFC) using the information on their website at www.uscg.mil/npfc

Types of claims for private entities allowed under the Oil Pollution Act include:

- Removal costs
- Real or Personal Property Damage
- Loss of Profits and Earning Capacity
- Subsistence Loss

If federal funds are sought, thorough documentation is required by NPFC. Refer to the Claimant Guide located on NPFC's website and 33 CFR Part 136 "Oil Spill Liability Trust fund; Claims Procedures; Designation of Source; and Advertisement" for further details. Contact NPFC at 1-800-280-7118 or arl-pf-npfcclaimsinfo@uscg.mil for additional information on the claims process.