



Office of Spill Prevention and Response

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

The Office of Spill Prevention and Response (OSPR) is the lead agency for overseeing the cleanup of oil spills in waters of the state. (See Gov. C. §8670.7; Fish & Game C. §5655) Generally, removal actions occur under the direction of a Unified Command consisting of the State On-Scene Coordinator, a Federal On-Scene Coordinator, the responsible party, and sometimes a Local Government On-Scene Coordinator. 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 responsibility to pay spill response costs, then 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, then OSPR may function as Finance Liaison for State agencies. Local government agencies should seek reimbursement directly from the Federal On-Scene Coordinator (FOSC) for the incident. 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 agency will be asked to provide a daily estimate of personnel and operating costs listing activities authorized by the Unified Command. (See "EXAMPLE Oil Spill Cost Recovery Procedures -- Spill Response--Cost Estimate")

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

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

Also, for a Local agency to be eligible for reimbursement of response costs from the Oil Spill Response Trust Fund (or any other state fund), that agency must use the Standardized Emergency Management System developed the Office of Emergency Services. (See Gov. C. §8607)

Documentation Requirements

Each agency should provide adequate cost documentation to support each item of expense. 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 an 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 accounting practices, 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.

For example: copies of signed employee time reports; explanation or accounting for how hourly billing rates were determined; copies of vendor invoices; travel expense claims, including airline and rental car charges, per diem and mileage charges, and per diem schedules.

Please contact Sandi Potstada at sandi.potstada@wildlife.ca.gov, or Kelly Abe at kelly.abe@wildlife.ca.gov with further questions or concerns.

- Third Party Claim Process - Oil Spill Damages Recovery Procedures for Private Entities

If a private entity is damaged as a result of the oil spill, they should seek reimbursement following the claims process established by the RP. For larger spills the RP will likely publish a toll free number to call. If there is no RP claims process, it is advisable to file a claim with the National Pollution Fund Center (NPFC) using the information on their website. Alternatively, claims may be submitted to the Oil Spill Response Trust Fund.

Types of claims for private entities allowed under the federal 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, www.uscg.mil/npfc, or arl-pf-npfcclaimsinfo@uscg.mil for additional information on the claims process.

EXAMPLE

Oil Spill Cost Recovery Procedures: Spill Response - Cost Estimate

Recommended tracking costs.
There may be additional cost that can be reimbursed.

Facility Name _____
Incident Name _____
Incident Date _____

Date Prepared _____
Billing Period _____

PERSONNEL COSTS

Date	Employee	Hourly Rate	Hours	Subtotal Personnel Costs	Subtotal Travel & Per Diem
2/18/2010	Responder	\$59.01	12	\$708.12	\$0.00
				\$0.00	\$0.00
				\$0.00	\$0.00
				\$0.00	\$0.00
				\$0.00	\$0.00
Total Costs				\$708.12	\$0.00

TRAVEL EXPENSES COSTS

Mileage	Mileage Reimbursement Rate	Total Cost of Mileage	Hotel, Air, Per Diem	Fuel Costs	Subtotal Cost
25	\$0.50	\$12.50	\$500.00	\$0.00	\$512.50
		\$0.00			\$0.00
		\$0.00			\$0.00
		\$0.00			\$0.00
		\$0.00			\$0.00
Total Costs		\$12.50	\$500.00	\$0.00	\$512.50

RESPONSE EQUIPMENT AND DISPOSAL COSTS

Item	Quantity	Rate per unit	Subtotal Costs
Response Equipment			
Disposal Cost			
Other: _____			
Other: _____			

TOTALS

Estimate Grand Total	\$
PERSONNEL COSTS	
TRAVEL EXPENSES COSTS	
RESPONSE EQUIPMENT & DISPOSAL COSTS	
TOTAL	