Claimant's Guide

A Compliance Guide for Submitting Claims Under the Oil Pollution Act of 1990

CG National Pollution Funds Center Claims
US Coast Guard Stop 7605
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Record of Changes

Change #	Description	Effective Date
CH-1	Updated information on claims for loss of subsistence use of natural resources	11/30/2009
CH-2	All Addresses changed to HQ after consolidation	11/09/2015

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PART I - INTRODUCTION

How to Use This Guide

If you believe you have uncompensated removal costs or damages resulting from an oil spill to the navigable waters or the threat of an oil spill to the navigable waters, you may be entitled to compensation from the Oil Spill Liability Trust Fund (OSLTF). The National Pollution Funds Center (NPFC) created this guide to assist you in determining whether you have damages that may be covered and, if so, how to properly submit a claim.

This guide is intended to assist individuals and small entities (e.g., small businesses, not-for-profit organizations, and small governmental jurisdictions) with submitting a claim or claims to the NPFC. This guide also provides assistance to states and larger entities. This guide is divided into four parts: "Introduction," "General Information," "General Claim Requirements," and "Specific Claim Requirements."

To help determine whether you are eligible, Part II (pages 2-3) provides background information on the NPFC, OSLTF, the Oil Pollution Act (OPA), the types of claims that can be submitted, and who is eligible to submit claims.

To help you learn about the submission process, deadlines, etc., Part III (pages 4-6) addresses information that is applicable to submission of all claims, regardless of claim type. Format, time limits, and the adjudication process are discussed in this section.

To learn about specific proof and supporting information for different claim types, Part IV (pages 7-16) addresses the specific requirements for each claim type and lists additional information that may be required to process your claim. General Claim Requirements also apply.

Key Definitions and an Acronym List can be found on pages 17 and 18, respectively. A Privacy Act Statement and instructions for the optional claim form can be found on page 19. A copy of the Optional OSLTF Claim Form is inserted with the guide.

Additional information may be obtained from the NPFC Web site: **www.uscg.mil/npfc**

This guide is intended to help claimants submit a claim against the OSLTF. **IT IS NOT A LEGAL REFERENCE**. The Oil Pollution Act of 1990 (OPA) (33 U.S.C. 2701 et. seq.) is the law that established the OSLTF and covers incidents involving oil spills. Claimants should consult the claims regulations in 33 CFR Part 136 to address legal and regulatory issues. If there is a conflict between this guide and OPA or the regulations at 33 CFR Part 136 the statute and regulations prevail.

If any claims-related questions are not answered by this guide or if you do not have internet access, you may contact the NPFC in writing, by phone, fax, or email:

CG National Pollution Funds Center: Claims
US Coast Guard Stop 7605
2703 Martin Luther King Jr Ave SE
Washington DC 20593-7605

Telephone: (800) 280-7118
Fax: (202) 372-8397

Claims-related email questions can be sent to the NPFC: **arl-pf-npfcclaimsinfo@uscg.mil**

Normal business hours are weekdays from 7:30 a.m. to 4:00 p.m. eastern time.

PART II - GENERAL INFORMATION

Background

OPA dictates that the spiller (responsible party or RP) pay compensation for certain removal costs or damages suffered as a result of an oil spill. The types of costs or damages covered under OPA are listed on page 2, under "What Claims may be submitted?"

The OSLTF was established to provide—

- Funds for Federal cleanup
- Funds to assess and restore damaged natural resources
- Compensation to claimants for certain removal costs and damages resulting from an oil spill incident
- Cost recovery from responsible parties for costs and damages paid from the OSLTF

The USCG, through the NPFC, manages the OSLTF by—

- Disbursing funds for Federal cleanup
- Monitoring the sources and uses of funds
- Adjudicating claims submitted to the OSLTF for payment
- Pursuing reimbursement from the RP for costs and damages paid by the OSLTF

After the NPFC evaluates your claim, a determination is made to accept or deny all or part of your claim. You will have 60 days to accept or reject the claim determination. If you accept the claim determination, then the NPFC will process the payment of the amount offered. If you reject the claim determination, you can request reconsideration of your claim and provide additional information. On reconsideration, the NPFC may re-evaluate your entire claim, based on the new information/documentation that you provide.

What Claims may be submitted?

OPA incidents involve a discharge or substantial threat of a discharge of oil from a vessel or facility into or on the navigable waters of the U.S., adjoining shoreline, or the exclusive economic zone. Claim types allowed under OPA include—

- Removal Costs (see page 8)
- Real or Personal Property Damage (see page 9)
- Loss of Profits and Earning Capacity (see page 10)
- Loss of Government Revenue (see page 12)
- Cost of Increased Public Services (see page 13)
- Subsistence Loss (see page 14)
- Natural Resource Damage (see page 15)

Under certain conditions, OPA also allows an RP to submit a claim to the NPFC for removal costs and damages paid by the RP (see page 16).

Who is Eligible to Submit a Claim?

A claimant can be—

- An individual
- A corporation, partnership, or association
- The United States government
- Federal, state, foreign or Indian tribe trustee
- States, the District of Columbia, municipalities, and political subdivisions of States
- The Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Marianas Islands, and any other territory or possession of the United States
- Certain foreign claimants, in accordance with Section 1007 of OPA (33 U.S.C. 2707)
- An RP who establishes entitlement to a defense to liability or limitation of liability in accordance with Section 1008 of OPA (33 U.S.C. 2708)

Lawsuits

The NPFC cannot evaluate, decide, or pay any claim that is part of a court case, including a class action suit, to recover the costs or damages in your claim.

Insurance

Claimants are not required to have insurance for OPA removal costs or damages. If you do have insurance that may cover the removal cost or damage, you are not required to use it, but you must report that you have it.

Double Payments

If a removal cost or damage claim has already been paid, no other claim for the same removal costs or damages can be paid from the OSLTF. For example, if a removal contractor accepts payment from the OSLTF for his removal costs, but then fails to pay his subcontractor, the subcontractor cannot be paid from the OSLTF for the same removal activity.

Mitigation

The Coast Guard considers that each claimant has a responsibility to make reasonable efforts to mitigate—that is, to avoid or minimize—the losses from an oil spill incident. Additional expenses related to avoiding or minimizing losses by a claimant can be included in the claim as additional expenses. The claimed amount of a direct loss will be adjusted for extra expenses and/or income related to avoidance/minimization efforts.

False Claims

If you submit a false claim you can be subject to civil and criminal prosecution under Federal law (18 U.S.C. 287 and 1001; 31 U.S.C. 3729).

PART III - GENERAL CLAIM REQUIREMENTS

Do You Qualify?

To qualify as an OPA claim, the following must be true:

- The incident (events surrounding the spill or threat of a spill) must have occurred on or after August 18, 1990.
- The incident involved the discharge, or substantial threat of discharge, of oil. (OPA expressly exempts discharges from public vessels, such as a U.S. Naval vessel; from an onshore facility subject to the Trans-Alaska Pipeline Authorization Act; and from discharges permitted by Federal, state or local permit.)
- The discharge or substantial threat of a discharge was into or upon the navigable waters of the U.S., their adjoining shorelines, or the Exclusive Economic Zone of the United States. A spill that impacts or potentially impacts ground water but not the navigable waters of the U.S. is not an OPA spill.
- The cost or damage is a type covered by OPA (see listing of claim types on page 2).

Where Do I Submit a Claim?

You must first submit the claim to the RP—

- Unless you fall under one of the exceptions noted in the following text, you must always first submit your claim to the RP or its insurer. (This guide does not address procedures for submitting claims to the RP. The RP must establish and advertise those procedures.)
- Your submission to the RP should state that you are filing a claim under Section 2713(a) of the Oil Pollution Act. Simply submitting an invoice or a bill to the RP is not sufficient unless the bill or invoice clearly states that it is a claim under OPA.

The exceptions for sending your claim directly to the NPFC rather than submitting it first to the RP are—

- The NPFC advertises or notifies claimants to submit claims directly to the NPFC.
- An RP asserting a claim under Section 1008 of OPA (33 U.S.C. 2708).
- A Governor of a State submitting for removal costs incurred by the State.
- A U.S. claimant suffers removal costs or damages from oil pollution from a foreign offshore unit.

After submitting your claim to the RP can you submit the claim to the NPFC?

- Yes. If the RP or its insurer denies your claim or does not pay within 90 days of the date you presented your claim to them or the RP's advertising began (whichever is later), you can submit your claim to the NPFC.

What You Need to Submit to the NPFC

- You must provide the NPFC with the information, documentation, and evidence needed to support your claim. If more information is needed, the NPFC will ask you for it. To make the process as quick as possible on your behalf, submit complete and detailed supporting information with your claim. *Receipt of incomplete information is the most common cause for delay in processing claims!*

- You will be reimbursed for reasonable removal costs and damages covered under OPA, including the reasonable cost of assessing you damage. For example, you can be reimbursed the costs of an accountant's assessing your business losses, but you will not be reimbursed for the accountant's costs of assisting you in preparing the claim.
- Businesses should identify, when appropriate, any "Confidential Business Information" included with your claim and provide the reason(s) you consider the information to be confidential. Under Federal law the government may be required to release documents to the general public.

(NOTE: Detailed information needed for each claim category is included in Part IV.)

Claim Format

There is no required format for OSLTF claims. You must, however, support your claim with evidence, information, and documentation; an optional claim form and instructions are included with this guide and may be used as an aid.

You do not need a lawyer to file a claim. You will not be compensated for any attorney's fees if you use a lawyer to assist in preparing or filing a claim.

Claims must be made in writing; we cannot accept verbal claims. Claims must follow the requirements for a claim (33 CFR 136.105), including the following information:

- Type and amount of damages for each type of claim
- Total amount claimed
- Your full name, street and mailing address(es), and telephone numbers for your home and business
- Time, date, and geographic location of the oil spill; identification of the navigable water impacted; and an explanation of how the oil impacted the water
- Identify the vessel, facility, or person causing or suspected of causing the spill, if possible, and include an explanation of why you suspect the vessel, facility, or person to have caused the spill
- A general description of the impact of the spill, including the removal costs or damages claimed by category
- Explanation of how the damage happened, the location, and the date and time (this may/may not be the same as the location, date, or time of the spill)
- Descriptions of actions taken to minimize or avoid damages
- Costs of assessing the damage (do not include attorney's fees or other costs for claim preparation or filing)
- Name, street and mailing address(es), and telephone numbers of any witnesses and a brief description of what the witness knows
- Copies of any written communications and content of any verbal communications with the RP, including any claims submitted to the RP
- Information on any attempts to submit claims to the person or company responsible for the oil pollution
- Information on any insurance claim made for removal costs or damages
- Any compensation you have received for removal costs or damages from the spill

- Statement that no action has been taken in court or, if action has been taken, the status of the pending court case
- Certification statement of the accuracy of the claim to the best of your knowledge and belief
- Your signature and, if applicable, your legal representative's signature

If necessary, the NPFC may ask you for additional information.

Time Limits

Claims for Damages: Damage claims must be made within three (3) years after the date on which the damage and its connection with the spill was reasonably discoverable with the exercise of due care. The only exception is for natural resource damage claims – see the Natural Resource Damage Funding Guidelines link in Section G of Part IV.

Claims for Removal Costs: A removal cost claim must be made within six (6) years after the date of completion of all removal actions for the incident.

NPFC considers the claim as "presented" on the day it is received.

The Adjudication Process

The NPFC processes claims in the order received.

The NPFC reviews the claim to see if all the information is included. If additional information is needed, the NPFC will request that you forward the information. If the information requested is not received within 90 days, NPFC will complete adjudication of the claim with the information it has. This may result in a reduction of possible compensation or denial of the claim.

Once the NPFC sends you a claim determination, you must accept or reject the offer within 60 days—

- If you accept, you must sign a release.
- If you take no action within 60 days, the offer to pay will be voided and the claim closed.
- If you reject the offer, you may provide additional information and ask NPFC to reconsider your claim. This may start an entirely new review process. Another claim determination will be made as a result of reconsideration and this determination on reconsideration becomes final agency action. “Reconsideration” is not “negotiation.”

Claims are paid in the order that they are approved. Payment normally takes 30 days after the NPFC receives your signed release.

PART IV - SPECIFIC CLAIM REQUIREMENTS

Sections A through H address the specific requirements for each category of claim and lists additional information above that listed in the General Claims Requirements that may be required to process your claim.

If any claims-related questions are not answered by this guide or if you do not have internet access, you may contact the NPFC in writing, by phone, fax, or e-mail:

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A. Removal Costs

Removal Costs: "Removal Costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

Example of a Typical Claim: You own waterfront property where a boat and dock were oiled from an OPA incident. You notified the National Response Center of the incident, discussed it with the FOSC, and hired a local contractor to remove the oil. You may have a claim for the cost of the contractor used to remove the oil from your property.

Eligible Claimant: Anyone incurring removal costs.

What you Must Prove: In addition to the information required in Part III, you must provide information that is specific to removal cost claims to prove that—

- Necessary actions were taken to prevent or reduce the effects of the spill.
- Removal costs resulted from these actions.
- Actions taken were reasonable and consistent with the National Contingency Plan.

Examples of Supporting Information:

Evidence of Spill:

- FOSC report
- Information on EPA or USCG notification
- Newspaper reports describing the spill
- Witness(es) statement(s)

General Information:

- Detailed description of actions
- Dates on which work was performed
- Analysis of spill substance
- Map of area
- Pictures of area, damage, and spill

Costs:

- Receipts, invoices, or similar records with description of work
- How rates were determined and any comparison of rates
- Daily records of personnel costs including details on labor rates, hours, travel, and transportation
- Daily records of equipment costs including description and use
- Signed disposal manifests and proof of payment for disposal
- Payroll verification of hourly rate at the time of spill
- Verification of standard equipment rates for equipment used

B. Real or Personal Property Damages

Real or Personal Property Damages: "Real or Personal Property Damages" means damages for injury to, or economic losses resulting from destruction of, real or personal property.

(NOTE: Injury to real or personal property does not include personal injury!)

Example of a Typical Claim: You own a recreational boat or waterfront property that was oiled by an OPA incident. You may have a claim for the cost of restoring your property to its pre-spill condition.

Eligible Claimant: Person or entity who owns or leases the property.

You Must Provide Information Showing:

- Your ownership or leasehold interest in the property
- That property was injured or destroyed
- Value of property both before and after injury
- Cost of repair or replacement of the property

If you lost money, show:

- The property was not usable because of the oil spill
- The value of your property before and after the spill
- Whether or not substitute property was available, and, if you did use substitute property, what the costs were
- How you lost money from the damage to the property

Examples of Documentation to Support Claim:

Evidence of Spill:

- FOSC report
- Information on EPA or USCG notification
- Newspaper reports describing the spill
- Witness(es) statement(s)

General Information:

- Copy of title, deed, lease, or license to property in your name
- Pictures or videotape of property and/or damage
- Maps or legal documents showing the location of the property within the spill area
- If you sold the property, professional property appraisals for the value of the property prior to and after the spill, actual selling price of the property, and evidence connecting the depressed selling price to the oil spill rather than to other economic or real property factors
- Copies of bills paid for repair of damage or two estimates showing activities and costs to repair the damage
- Any expenses or money lost while the property was unavailable because of spill damage
- Lease or rental agreement of any substitute property used

C. Loss of Profits and Earning Capacity

Loss of Profits and Earning Capacity: "Loss of profits and earning capacity" means damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources.

You do not have to own the damaged property or resources to submit a claim under this category.

Example of a Typical Claim: You lease a commercial charter boat that was trapped in port when the Coast Guard closed the river to remove oil. You may have a claim for lost profits or earnings during the time the river was officially closed. The recreational fishermen whose trip was cancelled would not have a loss of profits or earnings.

Eligible Claimant: Anyone with loss of profits or income.

You Must Provide Information Showing:

- Property or natural resources that were damaged, destroyed or lost, resulting in your loss
- Your income was reduced due to the damage or loss of the property or natural resources and how much it was reduced
- Amount of profits and earnings in similar time periods
- If alternative employment or business was available, what, if any, income was received from it
- Savings to overhead and other normal expenses not paid as a result of the spill (e.g., commuting costs, utility fees)

Examples of Documentation to Support Claim:

Evidence of Spill:

- FOSC report
- Information on EPA or USCG notification
- Newspaper reports describing the spill
- Photos of damaged property (before and after the spill)

General Information for Employee Claims:

- Statement on how the spill caused a loss in income
- Affidavit from your employer on the impact on your work or income due to the spill and if the company will be filing a claim for lost profits
- Copies of pay stubs, receipts, etc., from before, during, and after the spill
- Personnel records from your employer before, during, and after the spill, showing employment
- Description of efforts to reduce your loss, including job search
- Copies of any job-hunting expenses (e.g., travel costs)
- Signed copies of income tax returns and schedules for at least two years prior to spill
- Details of employment expenses not paid during period being claimed (e.g., commuting costs)
- Copies of pay stubs, etc., from alternative employment during time of spill

General Information for Claims by Businesses:

- Description and documentation of business losses due to spill
- Copies of letters of business cancellations caused by the spill damage
- Maps or descriptions of the area showing the business location and the spill impact area
- Financial statements for at least two years prior to spill and from the year of the spill
- Signed copies of income tax returns and schedules for at least three years prior to spill
- Details on efforts to mitigate losses or why no efforts were taken
- Statement from you or witnesses on how the spill led to loss of income or earning capacity; explain any earnings anomalies
- For hotels, daily and monthly occupancy information for two years prior to spill and the year of the spill

General Information on Claims by Fishing or Marine Charters:

- Description of business losses caused by the spill
- Evidence that vessel(s) were in the area impacted by the spill and were unable to carry on their business due to the spill
- Maps or descriptions of the area showing business location within spill area
- Statement from you or witnesses on how the spill caused the loss of income; explain any earnings anomalies
- Signed copies of income tax returns and schedules for at least three years prior to spill
- Details on expenses not paid out during period being claimed (e.g., wages)
- Booking records for three years prior to spill and year of spill
- List of charter rates, including any services the business specializes in (e.g., sport fishing)
- Copies of any logs relating to boating activities for the year prior to and the year of the spill
- Registration documents for the vessel(s), copies of business license, vessel license, fishing license, captain's license

D. Loss of Government Revenue

Loss of Government Revenue: Damages equal to the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources.

Example of a Typical Claim: A city charges fees for parking at a lot near a public beach. The beach is closed while an oil spill is being cleaned. The city may have a claim for loss of revenue during the beach closure.

Eligible Claimant: Federal government, a State, or a political subdivision of a State.

You Must Provide Information Showing:

- That the loss of revenue was caused by the injury to, destruction of, or loss of real or personal property or natural resources caused by the discharge
- The amount, identity, and description of the revenue loss for which compensation is claimed, including the applicable authority for collecting the revenue, method of assessment, applicable rate, and dates of collection or periods of loss
- Expenditures saved because revenue was not collected
- The total assessment or revenue collected and related expenditures for comparable revenue periods, typically covering two years

Examples of Documentation to Support Claim:

Evidence of Spill:

- FOSC report
- Information on EPA or USCG notification
- Newspaper reports describing the spill
- Witness(es) statement(s)

General Information:

- Description of what revenues were impacted and how the spill caused a loss of revenues
- Copies of statutes, regulations, ordinances, etc., outlining applicable authority to raise such revenues, property affected, method of assessment, rate of assessment, and method and dates of collection of assessment
- Government financial reports showing total assessment or revenue collected for comparable periods, typically covering two years
- Details of any expenses not paid out by government during the period being claimed
- Details and explanation of net loss of revenue

E. Cost of Increased Public Services

Cost of Increased Public Services: "Cost of Increased Public Services" are damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil or directly attributable to response to the oil spill incident.

Example of a Typical Claim: You are the manager of a coastal town that must provide emergency traffic control in the vicinity of an OPA incident. The town may have a claim for the costs of providing those emergency services.

Eligible Claimant: State or political subdivision of a State.

You Must Provide Information Showing:

- Justification for the public services provided, including documentation of what specific services were provided and showing their relationship to the spill
- When services were provided (during or after the removal activities)
- Services were in addition to services normally provided
- Net cost for the services and the methods used to compute those costs

Examples of Documentation to Support Claim:

Evidence of Spill:

- FOSC report
- Information on EPA or USCG notification
- Newspaper reports describing the spill
- Witness(es) statement(s)

General Information:

- Reports showing the increased public services were required and if the services were due to fire, health, or safety hazards
- Detailed description of what increased services were necessary and why, including a distinction between removal activities, safety acts, and law enforcement acts, and if the increase was actually incurred or if normal resources were diverted for use
- Daily reports on the activities of the government personnel and equipment involved

Government Labor and Equipment Rates:

- Payroll verification of the government hourly rate at the time
- Verification of the standard government equipment rates for any equipment claimed
- Signed and dated records of the spill including hourly rates for labor and equipment
- Explanation as to whether rates are fully loaded or not and formulas used; states should provide rates under OMB Circular A-87
- Certification that rates used reflected actual costs incurred and did not include punitive damages or fees

F. Loss of Subsistence Use of Natural Resources

Damages for Loss of Subsistence Use of Natural Resources: As determined by NPFC in claims adjudications, damages for loss of subsistence use of natural resources means damages resulting from the injury, destruction, or loss of natural resources used by the claimant to obtain food, shelter, clothing, medicine, or other minimum necessities of life.

Example of a Typical Claim: Federal and/or state natural resource managers close fishing areas following an OPA oil spill, restricting your ability to harvest fish that you depend upon for food. You may have an OPA claim for the cost to you of replacing the fish that you were unable to harvest because of the closures if, during the period of time for which the loss of subsistence use is claimed, there were no alternative sources or means of subsistence available to you.

The compensation allowable will be based on the reasonable replacement cost to you of the fish you needed during the loss period for your subsistence, less all compensation made available to you for your subsistence loss, all income you received by using the time you otherwise would have spent harvesting the fish for your subsistence, and all overhead or other normal expenses of your subsistence use that you avoided as a result of the incident. (See, 33 CFR 136.223.).

Eligible Claimant: Anyone who uses natural resources which have been injured, destroyed or lost as a result of an OPA oil spill incident, for their survival (e.g, for water, food, shelter, clothing, medicine, transportation or other subsistence purposes). It does not matter who owns or manages the affected natural resources. (See, 33 U.S.C. 2702(b)(2.)(C) and 33 CFR 136.219).

You Must Provide Information Showing: In addition to the proof required by subparts A and B of the regulations at 33 CFR part 136, you will need to provide the information described in 33 CFR 136.221 to support your claim. This requires that you:

- Identify each specific natural resource for which compensation for loss of subsistence use is being claimed;
- Describe the actual subsistence use you make of each specific natural resource you identify;
- Describe how and to what extent your subsistence use of the natural resource was affected by the injury to, destruction of, or loss of, each specific natural resource;
- Describe each effort you made to mitigate your subsistence use loss; and
- Describe each alternative source or means of subsistence available to you during the period of time for which you claim a loss of subsistence; and
- Describe any compensation available to you for the subsistence loss you suffered.

(NOTE: If you also want to claim for loss of profits or impairment of earning capacity due to loss of subsistence use of natural resources, you must include the proof required under 33 CFR 136.233.)

Examples of Documentation to Support Claim: Examples of documentation that may support your claim include, but are not limited to, the following:

Evidence of spill and reason to change subsistence use behavior -

- FOSC, natural resource trustee and newspaper reports describing the oil spill and response, and the resulting injury, destruction or loss of natural resources;
- Information in EPA or USCG notifications, and claims advertising;
- Witness(es) statement(s);

- Beach closures or fishing advisories;

Supporting information to demonstrate your subsistence use and damages -

- Photographs and videos;
- Published accounts, witness statements and other written records documenting your use of natural resources for subsistence purposes before, during, and after the spill and oil spill response;
- Maps;
- Store and barter receipts showing the replacement costs you claim;
- Copies of pay stubs and other documentation showing income you received before, during, and after the spill and oil spill response;
- Witness statements and documents showing the alternative sources of subsistence available to you, and your efforts to reduce the damages resulting from your loss of subsistence use, including receipts from job-hunting expenses (e.g., travel costs);
- Records showing the expenses you avoided during the time you were not able to carry out your subsistence use of the affected natural resource; and
- Records showing compensation you received for your loss.

G. Natural Resource Damages

Natural Resource Damages: Damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing the damage.

Example of a Typical Claim: You are the designated trustee agency for a state wildlife refuge that is oiled from an OPA incident. As trustee, you may have a claim for natural resource damages to cover the costs of assessing injuries and restoring the refuge to its pre-spill condition.

Eligible Claimant: Federal, state, foreign and Indian tribal trustees.

NRD Guidelines: Natural Resource Damage claims are often unique. A separate Natural Resource Damage Funding Guidelines publication is available on the NPFC Web page:

www.uscg.mil/npfc/NRD/

You may also call the NPFC's toll-free number with claims questions: (800) 280-7118

H. Claims by a Responsible Party (RP)

Claims by a Responsible Party: OPA Section 1008 (33 U.S.C. 2708) provides that an RP may assert a claim for removal costs and damages only if the RP demonstrates that the RP is entitled to a defense to liability under Section 1003 or to a limitation of liability under Section 1004.

Example of a Typical Claim: You are the owner of a recreational boat that sank after being hit by another vessel. Your vessel caused a gasoline and motor oil spill. If you can prove that the incident was caused solely by the other vessel, you may have a claim for amounts you paid for oil removal costs and damages.

RP Claims Must Show the Following:

- Documentation addressing each element of the complete defense to liability (33 U.S.C. 2703) or limitation of liability (33 U.S.C. 2704), as applicable
- That other claimants paid by the RP had presented their claims within OPA's time limits
- That the RP presented its claim to the NPFC within three years of the date the paid claims were presented to the RP
- Removal costs and damages for which compensation is requested are included under OPA (33 U.S.C. 2708)
- That individual claims paid meet the applicable regulatory requirements for claims against the OSLTF
- If the claim is for costs in excess of your limit of liability you must disclose—
    - > All costs and paid claims (not just those exceeding the limit of liability) and
    - > How those costs and paid claims meet OPA requirements

The NPFC will first evaluate your entitlement to the defense to liability or limitation of liability claimed before taking further action. You will be notified of this determination.

If your entitlement to the limitation of liability or complete defense to liability is upheld, the NPFC will measure the uncompensated removal costs and damages in accordance with the claims regulations for each claim type.

If the claim is for costs in excess of your limit of liability, the NPFC will measure the total acceptable costs for the incident and will deduct the limit of liability amount from the measurement.

KEY DEFINITIONS

Damages. OPA damages means damages to natural resources, to real or personal property, for loss of subsistence use of natural resources, for loss of governmental revenues, for loss of profits or earning capacity, and for increased or additional public services. These damages are specified in Section 1002(b) of OPA and are amplified in Section IV of this guide.

Discharge. Any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to spilling, leaking, pumping, pouring, emitting, or dumping.

Guarantor. Any person who provides evidence of financial responsibility for an RP under OPA.

Natural Resources. Land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the exclusive economic zone), any State or local government or Indian tribe, or any foreign government.

Oil. Oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include any substance which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act [42 U.S.C. §9601 et seq.].

Oil Spill. An occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the discharge or substantial threat of discharge of oil into or upon navigable waters of the United States, adjoining shorelines, or the exclusive economic zone (e.g., oil spill in coastal waters from a tanker). A spill that impacts ground water, but not the navigable waters of the U.S., is not an OPA spill.

Removal Costs. The costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

Responsible Party.

In the case of a vessel, any person owning, operating, or demise chartering the vessel;

In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit;

In the case of an offshore facility (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.)), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1301-1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as owner transfers possession and right to use the property to another person by lease, assignment, or permit;

In the case of a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524), the licensee;

In the case of a pipeline, any person owning or operating the pipeline; and,

In the case of an abandoned vessel, onshore facility, deepwater port, pipeline, or offshore facility, the persons who would have been responsible parties immediately prior to the abandonment of the vessel or facility.

ACRONYM LIST

CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
FOSC	Federal On-Scene Coordinator (either U.S. Coast Guard or EPA)
NPFC	National Pollution Funds Center
OPA	Oil Pollution Act of 1990 (also known as 33 U.S.C. 2701 et. seq.)
OSLTF	Oil Spill Liability Trust Fund
RP	Responsible Party
U.S.C.	United States Code
USCG	United States Coast Guard

PRIVACY ACT STATEMENT

AUTHORITY: 33 U.S.C. 2713. **PRINCIPAL PURPOSE:** To aid the Coast Guard in adjudicating claims for reimbursement of removal costs and damages from oil spills when the Responsible Party has not paid. **ROUTINE USES:** Information on reimbursements may be provided to the Internal Revenue Service for tax purposes and may be provided to the Department of Justice for litigation against the Responsible Party. **DISCLOSURE:** Decision to submit a claim is voluntary; but, if proper information is not furnished by the claimant, the Government may be unable to evaluate or pay a claim.

This information applies to all claims against the Oil Spill Liability Trust Fund, whether or not the Optional OSLTF Claim Form is used.

OPTIONAL OSLTF CLAIM FORM — INSTRUCTIONS

Please provide all information, evidence, and documentation that supports the removal costs and/or damage(s) claimed. **Use additional sheets or pages, as necessary,** to provide information, evidence, and documentation. The following numbered paragraphs correspond to the numbers on the optional claim form:

1. Complete name, street, city, state, ZIP and phone number of the claimant (party that incurred damage and is seeking reimbursement).

2. If known, provide the following incident information on the oil spill or threat of oil spill causing or suspected of causing the removal costs and/or damage(s) claimed:
   - The identity of the vessel, facility or entity causing or suspected of causing the incident.
   - Describe the geographic area and waterway directly affected by the oil spill or threat of oil spill.
   - Briefly describe any known information regarding the occurrence of the oil spill or threat of oil spill.

3. Indicate the amounts by the type of claim(s) being submitted. Provide the total amount claimed.

4. Indicate if claimant has had any communication (written or verbal) with the entity causing or suspected of causing the damage(s) claimed.

5. Has the claimant or the claimant's legal representative submitted the claim(s) to the entity causing or suspected of causing the damage claimed? If yes, include the date submitted.

6. If claim was submitted to the responsible party, indicate any response (written or verbal) or any payment you have received. Provide the date the claim was submitted.

7. Indicate if the claimant is pursing a claim(s) against the responsible party by legal representation in a court of law. If yes, provide all information that will enable us to contact your legal representative and identify your case.

*** * At the bottom of the first page of the form, please initial and date the page. * ***

8. Indicate if claimant is pursuing payment from an insurance carrier for costs that are included in the claim. If yes, provide all information that will enable us to contact the insurer and identify the claimant's policy.

9. Provide detailed information, evidence, and documentation that describes the extent of the damage(s) claimed. Attach copies, if necessary, of all pertinent information.

10. Provide any information, evidence, and documentation that will help describe how the oil spill, or threat of oil spill, caused the removal costs and/or damage(s) claimed.

11. Provide any information, evidence, and documentation that describe the actions of the claimant or any other person on the claimant's behalf to reduce or avoid the damage(s) claimed.

12. Provide the name, address and telephone number (if known) of any witness to the damage(s) claimed. On a separate page provide a summary of each witness's knowledge of the damage(s) claimed or the incident causing or suspected of causing the damage(s) claimed.

13. If you provide additional documents, please list them here or on a separate piece of paper.

14. If the claimant is an individual, that person must sign the claim. If the claimant is a corporation, an officer of the company must sign the claim. All signatures must be in ink to be valid.

15. If the claim is presented by a legal representative, that legal representative must also sign the claim. Provide the complete address and phone number of that legal representative.

Submit your claim, with any necessary information, evidence, and documentation to:

CG National Pollution Funds Center: Claims
US Coast Guard Stop 7605
2703 Martin Luther King Jr Ave SE
Washington DC 20593-7605

Claims for Natural Resource Damages or for Loss of Subsistence Use of Natural Resources may use the same address.

We recommend that you keep the Privacy Act Statement and a copy of the claim for your files.