



U.S. Department of
Homeland Security

United States
Coast Guard



NPFC Claims Process

Frequently Asked Questions from **Oil Spill Response** **Organizations (OSROs)**

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1. Introduction

A. Purpose of Document

This document is designed to help Oil Spill Removal Organizations (OSROs) better understand how to submit a claim for uncompensated removal costs to the National Pollution Funds Center (NPFC). This document also provides suggestions to make the claim preparation process easier and the approval processes quicker. It serves as a supplement to the *Claimant's Guide for Submitting OSLTF Claims*, which contains more detailed information on submitting any type of claim. This OSRO FAQ document and the Claimant's Guide are available from NPFC's Claims webpage at www.uscg.mil/npfc/claims.

B. Oil Pollution Act of 1990

The Oil Pollution Act (OPA) established a national Oil Spill Liability Trust Fund (OSLTF), which funds cleanup activities and provides compensation for damages from oil spills. The law also allows organizations, such as OSROs, that have helped clean up a spill but haven't received payment for their expenses to submit a claim for reimbursement from the OSLTF.

C. National Pollution Funds Center

The Coast Guard established the National Pollution Funds Center (NPFC) to administer the OSLTF. Three of the NPFC's major missions in support of oil spill response include:

- Provide funding for Federal On-Scene Coordinator (FOSC) removal activities for oil spills covered under OPA.
- Recover from responsible parties (RPs) the costs expended by the FOSC as well as the claims paid by the NPFC for an OPA oil spill incident.
- Pay claims for uncompensated removal costs and damages for an OPA incident.

D. Oil Spill Removal Organizations

Oil Spill Removal Organizations (OSROs) often work as direct contractors to the FOSC; in these cases, the OSROs are paid from the OSLTF according to the terms of their contracts with the Federal government. However, OSROs may also work for the party responsible for the spill; but if the RP doesn't reimburse the OSRO, the OSRO may submit a claim to the NPFC for reimbursement from the OSLTF. In the latter instance, the OSRO's claim is processed and approved in accordance with claims regulations.

E. Claims Regulations

The regulations governing submittal and approval of claims under OPA are found at 33 C.F.R. §136. The complete regulations can be downloaded from the NPFC Laws and Regulations webpage, www.uscg.mil/npfc/laws_and_regulations.htm.

F. Claimant's Guide and Claimant's Form

For more detailed information on submitting both damage and removal cost claims, see the *Claimant's guide for Submitting OSLTF Claims*, which is available at www.uscg.mil/npfc/claims. The document also includes the Optional OSLTF Claim Form.

2. How is reimbursement through the claims process different from payment through a contract or BOA?

Being reimbursed for oil spill removal costs through the OPA claims process is different in several respects from being paid through a contract or Basic Ordering Agreement (BOA) with an FOSC. The table below lists some of the main differences.

	Contract/BOA with FOSC	OPA Claims Process
Funding Source/Statutory Authority	OSLTF Emergency Fund; OPA Sec.1012 (a)(1)	OSLTF Principal Fund; OPA Sec.1012 (a)(4); Sec. 1013
Terms and Conditions	As stated in contract or BOA	As authorized in OPA Sec. 1012 and 1013, and described in Claims Regulations 33 C.F.R. §136
OSRO is Paid	According to prices listed in contract or BOA	Only for uncompensated, reasonable <i>removal costs</i> for actions determined by the FOSC to be consistent with the National Contingency Plan (NCP) or actions directed by the FOSC

When working for an RP, OSROs typically utilize a published price list of commercial rates. When working for an FOSC under a BOA delivery order, OSROs use negotiated rates, which are included as part of the BOA. In each of these instances, except for some possible differences on level of effort or documentation, OSROs will be paid the rates that are invoiced.

If an RP does not pay or pays only a portion of the invoice, OSROs may take legal action against the RP for a breach of contract or under OPA if the RP does not pay its presented OPA claim.

In addition to the previous options, there is another compensation option available. Under OPA, OSROs may present a claim to the NPFC for uncompensated reasonable removal costs. This claims process is like a safety net to provide an alternative to taking legal action or taking no action and absorbing losses.

However, the claims process is distinctly different from a contractual arrangement with an RP or even with the FOSC under the BOA process. With the claims process, there are no contractual agreements and there are no “agreed to” rates for resources. The NPFC is authorized to reimburse claimants for uncompensated reasonable removal costs only.

3. What do I need to include when submitting a claim to the NPFC?

The information you need to provide with your claim is discussed in the General Requirements section of the Claims Procedures Regulations, 33 C.F.R. §136, and in Part III of the *Claimant's Guide for Submitting OSLTF Claims*. The regulations require three areas of evidence for approving a claim:

1. Proof that an OPA incident occurred, and that the actions taken were necessary to mitigate the effects of the incident,
2. Proof that the removal costs were reasonable and were incurred as a result of those actions, and
3. Proof that the actions taken were determined by the Federal On-Scene Coordinator (FOSC) to be consistent with the National Contingency Plan (NCP) or were directed by the FOSC.

By completing the Optional OSLTF Claim Form (or providing analogous information) and providing the cost documentation and incident information described below, OSROs will generally meet these requirements.

A. Submitting a Claim -- Written Documentation Required.

Claims must be submitted in writing, and the claimant bears the burden of proving their claim. The NPFC cannot accept verbal communication as part of the claims record. We require a written record on anything the claimant would like us to consider on its claim. In the end, claims must be supported with evidence, information, and documentation to prove a claim of uncompensated, reasonable removal costs.

B. Submitting a Claim -- Optional Claims Form.

To simplify the claim submittal process, use the Optional OSLTF Claim Form (CG NPFC-CA1), located in the back of the *Claimant's Guide for Submitting OSLTF Claims* found at www.uscg.mil/npfc/claims and carefully follow the instructions in the guide for filling out this claim form. Properly completing the claim form provides the NPFC with much of the basic information it needs to adjudicate a claim. If you prefer not to use the form, you may submit another document as long as it contains the same information as that required in the form.

In addition to the information provided in the claim form, submit the cost documentation and incident information listed on the following pages to support a removal claim.

Obtaining Documents

All regulations, documents, and forms are available on the NPFC Web site at www.uscg.mil/npfc/claims

See the Additional Information section at the end of this document for more information on contacting the NPFC or requesting paper copies.

C. Submitting a Claim -- Cost Documentation.

Type of Cost Documentation	Description
Invoices	Copies of invoices originally submitted to the Responsible Party (RP) or the party that hired your company to respond to the incident. Ensure invoices meet the requirements of a properly presented claim under OPA. Any cover letters or other correspondence with this party regarding invoices is also helpful. Provide a copy of any contracts or work agreements entered into with the party that hired your company. Also provide a copy of the applicable rate schedule that was in place for the particular response you are seeking compensation for.
Invoice Summaries	If your invoices are not broken out by daily costs, provide copies of invoice summary sheets that show, on a day-to-day basis, how your invoiced amount was determined.
Daily Worksheets	Copies of all worksheets, filled out daily, onsite, and signed by your company's representative and a representative of the party that hired your company. These worksheets should list all personnel, equipment, materials, and subcontractors utilized during the response for each day and must indicate the date and location where the work was performed and the arrival and departure times for all personnel and equipment.
Subcontractor Costs	<p>If you hired subcontractor services during the spill response and your company has paid for those services, provide copies of the subcontractors' invoices and proof of your payment of those invoices.</p> <ul style="list-style-type: none"> • If the subcontractors provided personnel, equipment, and materials, provide the same level of support detail noted in the items above. • If the subcontractor provided only equipment and/or materials, provide sufficient detail to properly identify the equipment, hours of operation, and applicable rates. • Receipts for materials purchased during the response should be dated and should clearly identify the materials purchased, number of units purchased, and price per unit. If not clearly indicated on the receipt or invoice, provide proof that these costs have been paid (i.e., proof of payment).
Waste Disposal Costs	Provide copies of Waste Manifests, invoices for costs related to the disposal of waste resulting from the cleanup (e.g., sampling) and proof of your payment of those costs. Also provide verification of refunds/credits whenever recycling is involved as a result of a disposal action.

Carefully review all cost documentation before submitting your claim. NPFC's claims manager must carefully verify the *sum certain* (the total amount you are claiming) against these documents. Any discrepancies found at this level result in unwanted delays as the claims manager must determine the reason for the discrepancy and will likely need to request additional information or clarification from you before moving forward with the adjudication of your claim.

D. Submitting a Claim -- Incident Information

Type of Information	Description
Incident Description & OSRO Response Actions	<p>Provide a description of the incident and your response actions, including dates and times of discovery, notifications, and the activation of your company to respond. Explain why the level of effort reflected in your daily worksheets was necessary; depending on the circumstances, this explanation may need to be detailed, especially if unusual procedures or costs are involved. Identify on-scene representatives for the various parties involved. Sometimes pictures and maps can be helpful in demonstrating the special circumstances of an incident and your response actions.</p>
RP Information	<p>Provide information that identifies the RP or the party (facility, vessel, etc.) that activated your company to respond to the incident and provide the details of that activation (date, time, what was requested, contact information, etc.).</p> <ul style="list-style-type: none"> • If the party that activated your company to respond was a vessel, provide information regarding the vessel's owners, operators, agents, and applicable insurers (e.g., P&I Club, Local Correspondents, H&M Underwriters). • Identify the person or persons who were providing the management oversight and supervision of your response actions. • Provide, with as much detail as possible, the contact information and latest billing address(es) you are aware of for the RP. The NPFC must contact the RP when the claim package arrives, and we need the best possible contact information. Often when we notify the RP that we are reviewing the claim, the RP decides to pay the claim, which is the best result for all concerned. Your diligence in this area may result in an even speedier resolution of your claim.
FOSC, State, and Other Agency Reports	<p>If available to you, provide copies of any agency reports, such as Pollution Reports (POLREPS) or Situation Reports (SITREPS) that help describe the incident and the response actions taken.</p> <ul style="list-style-type: none"> • If samples were taken and analyzed, provide the results of the sample analysis and information to identify who took the samples. This greatly assists us in determining the composition of the product you removed, a claim threshold issue we must address prior to making a determination on your claim. • If such reports are not available, provide information identifying any agency representatives that were notified or responded to the incident.

4. Why must I submit my claim to the RP first?

The Oil Pollution Act requires that all claims for removal costs be presented first to the responsible party (RP). OPA then states that if a claim is properly presented and each person to whom the claim is presented denies all liability for the claim, or if the claim is not settled by payment within 90 days after the date upon which the claim was presented, you may either:

- Commence action in court against the responsible party or
- Present the claim to the Fund (i.e., submit the claim to the NPFC).

5. What does “order of presentment” of a claim mean?

The regulation at 33 C.F.R. §136.103 lists the order and timing for submitting a claim to the RP and the NPFC. In almost all cases, claims must be submitted to the RP first before submitting it to NPFC (see the FAQ below for exceptions).

When the NPFC receives a claim, the claims manager will again send a request for payment to the RP; but it is still the responsibility of the claimant to present the claim first. If the claimant has not submitted the claim to the RP, the NPFC will ask them to do so before adjudicating the claim.

Before you can submit the claim to the NPFC, the regulations require you to wait 90 days after submitting your claim to the RP or until the RP responds and denies your request, whichever is earlier.

6. Can I ever submit a claim to the NPFC first?

The only time an OSRO may submit a claim directly to the NPFC without first presenting it to the RP is when the NPFC advertises for claims or notifies claimants to submit claims directly to the NPFC. This may occur when the RP is not identified and the spill is designated a “mystery spill” or when the RP denies liability for claims.

7. How much time do I have to submit a claim to the NPFC?

You must present a removal cost claim to the NPFC within six years of the date of completion of all removal actions for the incident. The NPFC considers the claim as "presented" on the day it is received at the NPFC.

The FOOSC determines the incident’s date of completion of all removal actions. If the FOOSC was not on-scene and did not make such a determination, then you must provide sufficient information so the claims manager can determine the date that cleanup was completed. The more information you provide in this regard, the quicker the claims manager will be able to review the circumstances and make a determination.

8. How does the NPFC review my claim?

The NPFC assigns your claim to a claims manager who specializes in removal actions and removal cost claims. Generally, the claims manager follows the steps below.

1. The claims manager reviews the claim to verify that the claim is related to an OPA incident, and that all documentation is complete.
2. The claims manager sends you a letter acknowledging that the NPFC received the claim.
3. The claims manager also sends a letter notifying the RP that you have submitted a claim for a certain dollar amount and offering the RP an opportunity to provide information regarding the claim.
4. If additional information is needed, the claims manager will inform you (usually by letter but sometimes via phone or email) of what specific information is needed to adjudicate the claim. Typically, the claims manager initiates a dialogue to address specific concerns.
 - If the information requested is not received in a reasonable time frame, usually within 60 days, the NPFC completes adjudication of the claim with the information it has on hand. This may be detrimental to you as it can result in a partial payment or denial of the claim.
5. Upon receiving all information you provide, the claims manager:
 - Adjudicates the claim;
 - Decides whether the claim should be approved, denied in part, or denied as presented; and determines the amount of reimbursement, if any, that should be authorized.
6. NPFC's Removal Claims Branch Chief then reviews and makes a decision to approve or require further information regarding the claims manager's determination.
7. Larger or more complex claims may require a further review by NPFC and Coast Guard legal staff.
8. The NPFC sends you a notice of the determination.

9. I have just received my determination and don't agree with it. What options do I have?

Once the NPFC sends you a claim determination, you must accept or reject the offer within 60 days. The determination is NOT a negotiable item; however, if you find minor errors (i.e., a math error), please bring this to our attention early.

If you accept the determination, you must sign the release the NPFC includes with the determination.

If you take no action within 60 days, the offer to pay is void and the claim is denied.

If your claim is denied, in whole or in part, or you want to reject the offer, you may provide additional information supporting the area where you are seeking a re-evaluation and ask NPFC to "reconsider" your claim. As part of your reconsideration package, you should provide:

- Any documentation that was not previously provided,
- Any new evidence to support your claim, and/or

- Your explanation with supporting documentation on the particular issue(s) on which you disagree with the NPFC’s determination.

Your request for reconsideration of your claim may start an entirely new review process. When the process is complete the NPFC extends another, the claim’s final determination, as a result of your request for reconsideration.

The NPFC’s reconsideration determination is not negotiable and is considered a final agency action and you cannot request a second reconsideration.

10. What does NPFC consider “uncompensated reasonable removal costs”?

The law (OPA Section 1013 (d), 33 C.F.R §136.205), requires the NPFC to reimburse claimants only for “uncompensated reasonable removal costs.” What this means is that with the claims process, there are no contractual agreements and there are no “agreed to” rates for resources that it is bound by or has to honor. Given this, the NPFC determines what the reasonable removal costs were; which may or may not be the same as the rates you charge through your contractual agreements. Be sure to always include the applicable rate schedule with your claim submission to the NPFC for consideration in support of your invoicing.

A. Necessary Actions and Level of Effort

Another part of NPFC’s reasonableness determination involves the “level of effort” required to clean up the oil spill. You must establish that the “actions taken were necessary” and were determined by the FOOSC to be consistent with the National Contingency Plan (NCP). For example, would a response that cost \$200K and included 50 workers for a solid week seem reasonable for a 5-gallon spill? Not likely; but there may be mitigating circumstances that justify such an expense. In such a situation, you should provide additional information/documentation/evidence to explain, justify, and support these costs; then perhaps reasonableness can be established. The NPFC has a staff of claims managers who have extensive oil spill response expertise, with Federal and industry experience or extensive claims adjusting expertise. These are the folks who make the reasonableness determination, and whenever deemed necessary can obtain additional resources and expertise as required to evaluate a claim.

If you find that you disagree with NPFC’s reasonableness determination on level of effort or costs, please consider the following:

- Reviewing the documentation that you provided in your claim and assessing whether or not the information you provided was enough to explain why the costs were reasonable to someone unfamiliar with the situation at hand?
- Did you provide information that explained and supported that the level of effort expended was necessary?
- Did you ascertain what documentation is missing or needs further explanation?

These questions will help you in engaging the claims reconsideration process in a way that may shed light on what wasn’t presented before and therefore needs to be provided. As this becomes evident, the reconsideration process is sped up and hopefully together we can bridge the gap between your expectation and our determination.

B. Uncompensated “Incurred” Costs

Whenever submitting a claim, you must also prove that you have actually incurred the removal costs that you are claiming. The NPFC requires you to provide Proof of Payment for subcontractors, service providers, and miscellaneous purchases of materials. Your claim submission should include this information. Otherwise, we will need to request additional information which will only delay the adjudication of your claim further.

Subcontractors: Sometimes a prime contractor submits a removal cost claim to the NPFC that includes costs incurred by a subcontractor. If the prime contractor has not paid the subcontractor for its services, the prime has not incurred the cost and therefore cannot submit those costs as a part of its claim. In these situations, the NPFC either requires the prime to pay the subcontractor before considering those costs or makes the subcontractor’s costs into a separate claim that can be submitted by the subcontractor.

C. Some Examples

Situation	Determination
<i>As a prime contractor, you hire a subcontractor during a response and submit those costs as part of your claim to the NPFC. However, you have not paid the subcontractor, waiting instead to be paid yourself first.</i>	To submit a removal cost claim to the NPFC, you must have incurred costs associated with the oil spill response. These costs may include your own company’s costs for labor, equipment, and materials, as well as costs for resources supplied by a subcontractor. If you have not paid the subcontractor, then your company does not have an <i>uncompensated</i> removal cost for that particular subcontractor’s work. Until you pay the subcontractor, you are not out any money—and you don’t have an uncompensated cost.
<i>The RP has made a partial payment but still owes you for services provided.</i>	In cases where the RP has made a partial payment but does not pay you for the remainder of the bill, you may seek reimbursement from NPFC for the remainder. However, the claims manager must ask you to provide documentation for all your costs related to the response, not just the unpaid portion. Why? Because the claims manager is responsible for determining that the costs incurred throughout the response are reasonable. Once you have provided this documentation and the claims manager has made a determination concerning the reasonable costs of the response, the claims manager subtracts whatever partial payment you have already received from that amount.
<i>The RP has paid the prime contractor’s invoice but the prime contractor has not paid you, a subcontractor invoiced through the prime.</i>	The situation of most concern to subcontractors is when the RP does pay the prime contractor and then the prime does not pay the sub’s bills. Unfortunately, in this particular instance, you, the subcontractor, cannot use the NPFC claims process. Why? Because the cost of the cleanup (i.e., the prime’s costs as presented to the RP) has been paid by the RP. The NPFC cannot make payment for activities that have already been paid; as this is an unfortunate contractual dispute between you and the prime, and where there is no recourse through the NPFC claims process.

11. What does “consistent with the NCP” mean?

The NCP is the National Contingency Plan, Federal Regulation 40 C.F.R. §300. It outlines approved procedures and removal activities when responding to an oil and/or hazardous substance spill/release. OPA claims procedures require that all removal activities be consistent with the NCP.

When you are working for the FOSC under a BOA, the FOSC ensures all activities are consistent with the NCP. This is usually true also when you are working for a state under a BOA. The Federal or state On-Scene Coordinator outlines the approved removal activities and resources. When you are not working for the FOSC, it is your responsibility to obtain the FOSC’s determination that the actions taken were consistent with the NCP. Early communication with the FOSC is encouraged and strongly recommended.

The NCP identifies four phases of response operations for oil discharges:

- I Discovery and Notification
- II Preliminary Assessment and Initiation of Action
- III Containment, Countermeasures, Cleanup, and Disposal
- IV Documentation and Costs Recovery

The NPFC claims manager must verify consistency with the following NCP requirements.

Notification	The RP or spiller and the person in charge of a vessel or facility are required to notify the National Response Center FOSC (1-800-424-8802) upon the discovery of an oil discharge. Notification can also be made directly to the FOSC
Coordination	Response activities must be completed with the coordination of the FOSC and as outlined in the vessel- or facility-approved response plan.
RP Identification	The Responsible Party (owner/operator of the source of discharge) must be identified, when applicable.
Approved Methodologies	Removal activities must be outlined and approved by the NCP and/or directed by the FOSC.
Disposal	Recovered oil must be properly sampled (laboratory oil sample analysis) and disposal conducted in accordance with applicable Federal and state laws.

12. Who is responsible for paying me? For whom am I working?

Whether working directly for the FOSC, or submitting a claim to the NPFC, OSROs often believe that they are working for the Coast Guard. However, that is not the case. The emergency portion of the OSLTF is available to the FOSC when hiring you under a BOA, but different OPA statutes, rules and regulations apply when you present a claim to the NPFC. In the latter case, any reimbursements come from the principal portion of the OSLTF, whose statutory authorities and regulations are different from the Emergency Fund.

Working *with or alongside* the FOSC during an oil spill response does not necessarily equate to working *for* the FOSC. During a response to larger oil spills, a Unified Command post is normally established. The Unified Command involves the FOSC, state OSC, and the RP, which may have hired you. The FOSC may direct the RP to provide resources and then monitor the removal activities, but you are still working under a contract with the RP.

When you are working directly for the FOSC, the pre-negotiated BOA rates apply for all equipment and labor, and you submit your invoices to the FOSC under the terms of the BOA contract.

The FOSC may also hire the state OSC to run the oil spill response. The state in turn may then hire you. In this case, the state is responsible for paying you.

Obtaining a BOA			
If you don't have an existing BOA with the Coast Guard, you may contact its Maintenance and Logistics Command (MLC) on either coast.			
Atlantic (MLC LANT)	Pamela Barker	757/628-4128,	PBarker@MLCA.uscg.mil
Gulf (MLC LANT)	Michelle Blake	757/628-4110	MBlake@MLCA.uscg.mil
Pacific (MLC PAC)	Mike Leonard	510/437-5942	MLeonard@D11.uscg.mil

13. What can I do to protect myself?

Whether working for an FOSC under a BOA delivery order or for an RP under a commercial contract, you want to be paid the full amount of your invoices. Typically, if you experience problems with receiving payment, you should pursue contract remedies. The NPFC claims process allows only for reimbursement for uncompensated and reasonable removal costs incurred; unfortunately, this does not always match the full amount of any invoice you may have sent to the RP. Unlike the contracting process when working for the FOSC or the RP, the claims adjudication process is not a negotiation - you must prove your claim. Failure to do so may cause your claim to be denied in whole or in part. Listed below are some suggestions that might help you avoid common problems.

A. What to Do When a Spill Occurs

- Require the RP to place a deposit or advance of funds. Based on your experience with the company, the company's financial status, etc, make a conscious business decision on whether or not the RP is "good for the total cost of the cleanup."

- If the spill cleanup effort will be lengthy, negotiate with the RP for periodic payments for work completed.
- Advise the FOSC if payment from the RP becomes questionable. Question the FOSC if the FOSC tells you to “just do the work and submit a claim.”
- Understand that when you are working for the RP, taking any direction from the FOSC does not constitute a delivery order or contract with the FOSC.
- Keep daily records of activities (e.g., daily worksheets) that show level of effort and personnel and equipment on scene at a response, including whether the equipment is being used or on standby. Have your dailies signed by the RP’s representative who is managing your work.
- If directions from the RP are unclear, obtain clarification. Remember: activities that are inconsistent with the NCP may not be reimbursed. Make sure the FOSC knows.
- Understand that the NPFC cannot blindly accept contract rates and is not bound by any contract you have with the RP. Similarly, the NPFC is not bound by the rates within any BOA delivery order that you have with the FOSC. Some generally accepted contract items, such as using hourly rates exclusively when a daily rate is clearly warranted, might not be considered reasonable uncompensated removal costs under the claims regulations.
- Make sure the FOSC clearly knows your actual capability to respond to different size spills in different locations.

B. Problems That May Arise During a Response

- Directions from the FOSC may appear to be direct tasking to the OSRO. Remember who hired you; resolve any apparent inconsistencies through communication with the RP and the FOSC.
- Response efforts may go beyond what an FOSC would consider “consistent with the NCP.” This may include directions from an RP or a state OSC that are in conformance with state law but which exceed what the FOSC would require. Be clear as to where the line is, since anything inconsistent with the NCP is not compensable by the NPFC.
- The RP may also desire to do additional work that goes beyond removal of oil from navigable waters and adjoining shorelines or actions to prevent or mitigate a substantial threat of discharge to navigable waters and adjoining shorelines. Consistency with NCP becomes an even larger issue when this is the case.
- The FOSC may be in a “monitoring” mode and may not indicate what or when actions go beyond what is required. The “how clean is clean” determination may not be clear unless you communicate with the FOSC.
- If the FOSC never shows up, the issues of reasonableness and consistency with the NCP will require “after-the-fact” coordination with the FOSC. To avoid this, communicate with the FOSC during the response. In the absence of any FOSC input, the NPFC must rely on documentation provided in the claim to determine consistency with the NCP and the reasonableness of your claimed costs for uncompensated removal costs incurred.
- If no sampling is done to identify the RP, the likelihood that the RP may refuse to pay you may rise. FOSC/SOSC may take samples. While sampling is part of the proper disposal process, unless there are source samples to compare to, the identification of the RP may be difficult.

C. How to Improve Success in the Claims Process

- Always document your activities and level of effort, and provide explanation of why actions were necessary or required. Provide documentation to support actions taken.
- Maintain an accurate record of personnel and equipment utilized as they are used. “Dailies” are the best form of documentation.
- Verify your accounting. Daily worksheets, daily invoice summaries, and final invoices must match up and support each other. Claimed amount or “sum certain” of claim should match the final invoice total, unless an explanation is provided. Provide documentation to support costs claimed.
- Provide a complete claim file. Include your written demand for a sum certain to the RP clearly expressed as a claim for uncompensated removal costs incurred for which the RP is liable under OPA. Your invoices as a demand for payment under a contract with the RP are not sufficient. (The NPFC claims manager will be communicating with the RP regarding your claimed costs.)
- Obtain FOSC coordination at the time of your response and document it. If this is not done, request the FOSC to review your response “after the fact.” Remember that a determination of substantial threat can be made only by the FOSC and that the FOSC is not expected to evaluate your rates but should provide input on your level of effort and activities.
- Make sure you present your invoice to the RP right away. Provide reasonable documentation that you have done so when you submit your claim.

