Real or Personal Property Damage Claims

Claims for real or personal property damage originate from the injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases the property. There are two types of property damage that include:

* **Real property damage** is injury to or economic losses resulting from destruction of land or buildings.
* **Personal property damage** is injury to or economic losses resulting from damages to other types of property you own or lease besides real property.

General Claim Requirements

A claim for real or personal property damage may only be submitted by a person either owning or leasing the property at the time of the damage. When preparing the claim for submission to the [Oil Spill Liability Trust Fund](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) (OSLTF or Fund), the claimant is reminded that they bear the burden of providing all evidence, information, and documentation deemed relevant and necessary by the Director of the CG National Pollution Funds Center (NPFC), to support and properly process the claim. At a minimum, the claimant will be required to:

* Prove that the damage costs associated with the claim meet the criteria for a claim as established within the [Oil Pollution Act of 1990](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) (OPA) as detailed below.  
  + The substance associated with the response was [oil](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/);
  + That there was a [discharge](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) of oil or [substantial threat of discharge](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) of oil;
  + The discharge or substantial threat of oil discharge impacted a [navigable waterway of the United States](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/); and
  + The discharge or substantial threat of discharge of oil originated from a [vessel](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) or [facility](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/).
* Prove that the property was injured or destroyed as a result of the oil spill.
* Prove that you owned or leased the property at the time of the oil spill.
* Show the value of the property both before and after the oil spill.
* Show the cost to repair or replace the property.
* For economic loss, prove that the property was not available for use and, if it had been, the value of that use.
* For economic loss, whether or not substitute property was available and, if used, the costs thereof.
* For economic loss, that the loss was incurred as a result of the injury to or destruction of the property.
* Prove that you first presented your real or personal property damage claim to the [responsible party (RP)](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary), unless:  
  + The NPFC has advertised for claims specific to the incident subject to your claim;
  + You are a responsible party asserting a claim under the OPA;
  + You are a U.S. claimant in a case where a [foreign offshore unit](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary) has discharged oil; or
  + A responsible party was never identified for the incident subject to your claim and the incident was determined to be a [mystery spill](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) by the [Federal On-Scene Coordinator](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) (FOSC).
* Submit your signed claim in writing with a [sum certain](https://www.uscg.mil/Mariners/National-Pollution-Funds-Center/Glossary/) (total claimed costs) for compensation resulting from the incident.
* Submit the claim within three years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care.

Compensation Allowed

* The amount of compensation allowable for a property damage claim is the **lesser** of:  
  + Actual or estimated net cost of repairs necessary to restore the property to substantially the same condition which existed immediately before the damage;
  + The difference between the value of the property before and after the damage; or
  + The replacement value.
  + Additionally, compensation for economic loss resulting from the destruction of real or personal property may be allowed in the amount equal to the reasonable costs actually incurred for use of substitute commercial property or, if substitute commercial property was not reasonably available, in an amount equal to the net economic loss which resulted from not having use of the property. When substitute commercial property was reasonably available, but not used, allowable compensation for loss of use is limited to the cost of the substitute property commercial property, or the property lost, whichever is less. **Compensation for loss of use of noncommercial property is not allowable.**

Example of a Property Damage Claim  
  
You own a vessel that was oiled following an oil spill incident. In preparation of submitting your claim to the Fund, you obtained repair estimates from local repair facilities to be used in the review of your claim. You also obtained the replacement value of your vessel on the date it was damaged by the oil spill. Lastly, you were able to determine the value of your vessel before and after the oil spill. By providing this information along with other required information (e.g., General Claim requirements and other Supporting Documentation), you may have a property damage claim for the **lesser** of: 1) the actual or estimated net cost of repairs necessary to restore your vessel to substantially the same condition which existed immediately before the damage; 2) the difference between the value of your vessel before and after the damage; or 3) the replacement cost of your vessel.

Examples of Supporting Documentation

You must provide evidence that supports your claim, and you can use whatever documentation you believe best supports your claim. Listed below are examples of documentation typically submitted in support of real or personal property damage claims:

* Photographs or videos of the incident and the response actions.
* Reports from local, State, or Federal agencies overseeing the incident.
* Analysis of the oil that resulted in the incident upon which you based your claim submission.
* Other documentation to proof that oil was spilled and caused your damage.
* Proof of oil damage to your property.
* Proof of ownership of the Real or Personal Property (e.g., deeds, titles…).
* Property Appraisals (as applicable).
* Lease or rental agreements (as applicable).
* Repair estimates used in the valuation of your property damage.
* Replacement value.
* Value of your property both before the injury and after the injury due to oil.
* Guidelines relied upon for the valuation of your property prior to the oil spill incident.
* Affidavits or witness statements attesting to the incident and your damage from the incident.
* Any additional documentation that you feel supports your claim.

How to Submit Your Claim

1. Develop a claim submission that meets the general requirements for a claim found in 33 CFR 136.1 or complete the [Optional OSLTF Claims Form](https://www.uscg.mil/Portals/0/NPFC/docs/PDFs/OSLTF_Claim_Form_Rev_Aug19.pdf?ver=2017-08-15-124737-893)that describes your claim.
2. Attach supporting documentation, such as those listed above.
3. Submit your removal cost claim submission electronically to the NPFC Claims Division at [hqs-smb-npfc-claimsinfo@uscg.mil](mailto:hqs-smb-npfc-claimsinfo@uscg.mil). Please note, the NPFC’s email server will only accept email attachments up to 8MB in size and any attachments larger than 8MB will be rejected by the NPFC’s mail server. As such, the NPFC recommends claimants request a drop-off for any supporting claim documents in excess of 8MB within their claim submission email to the NPFC. Upon receipt of your electronic claim submission and email request to drop-off additional documents, the NPFC will send you a link to the DoD SAFE server that will allow you to upload your additional documents using the NPFC’s Claims Division email account [hqs-smb-npfc-claimsinfo@uscg.mil](mailto:hqs-smb-npfc-claimsinfo@uscg.mil) as the recipient of your documents.

In the alternative, you can mail your claim submission with supporting documentation via US Postal Service or other mail service carriers to the following address:

CG National Pollution Funds Center: Claims

US Coast Guard Stop 7605

2703 Martin Luther King Jr Ave. SE

Washington DC 20593-7605

Note – all mail intended for the NPFC is screened before delivery to our office. In the past, the irradiation methods employed during screening have destroyed CDs and thumb-drives mailed to the NPFC in support of claim submissions. As such, the NPFC Claims Division may ask you to provide your information electronically via the DoD SAFE site if the CDs/thumb drives provided in support of your claim submission are damaged during the screening process.

Questions

The NPFC maintains a toll-free number that’s monitored Monday – Friday from 7:00 a.m. to 4 p.m. EST. The toll-free number is 1-800-280-7118. You can also email the NPFC Claims Division at [hqs-smb-npfc-claimsinfo@uscg.mil](mailto:hqs-smb-npfc-claimsinfo@uscg.mil). Calls or emails placed to the NPFC Claims Division after normal working hours, or on Holidays/weekends, will be responded to on the next business day.  
  
Disclaimer

The summary information contained within this document is intended to assist claimants in the preparation of their claim and not as the sole source of information regarding the OPA or claims regulations. Instead, claimants should review and then rely upon the OPA located at <https://uscode.house.gov/view.xhtml?path=/prelim@title33/chapter40&edition=prelim> and implementing regulations located at <https://www.ecfr.gov/current/title-33/chapter-I/subchapter-M/part-136> for information definitive to their claim and claim submission.