

OSLTF Funding



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What Are Our Goals Today?

- OSLTF Threshold Issues
- Procedures for Accessing the OSLTF
- Funding for Removal Activities vs. NRDA Activities vs. Claims

National Pollution Funds Center



Access to the Fund

- Pre-designated EPA & CG FOSCs have direct access to the Fund via the Ceiling and Number Assignment Processing System (CANAPS)
- FOSCs can also access the Fund 24/7 thru NPFC's Duty Officer
- Other government agencies (OGAs) can be hired via a PRFA or MIPR (DoD)
- Federal Trustees conducting Natural Resource Damage Assessment (NRDA)
- Claimants

Costs funded by OSLTF

- Oil spill assessment by FOSC
- Oil spill response, removal, disposal
- NRDA - Natural resource damage assessment
- Overtime for civilians
- Refurbishment of agency equipment damaged/oiled/destroyed during removal
- Preparation of cost documentation on big cases
- Claims

Limitations of the OSLTF

- Maximum \$1B per case or balance of Fund if less than \$1B
- NRDA - Max of \$500M per case
- Discharge must threaten or actually spill into navigable waters of the U.S., including exclusive economic zones (EEZs)

Four Phases for Oil Removal

NCP subpart D 40 CFR § 300.300



- Q Discovery or Notification
- \$ Preliminary Assessment & Initiation of Action
- \$ Containment, Countermeasures, Cleanup & Disposal (a.k.a. Removal Activities)
- \$ Documentation & Cost Recovery

Preliminary Assessment and Initiation of Action

NCP 40 CFR §300.305

The FOSC is responsible for promptly initiating a preliminary assessment and using available information supplemented by on-scene inspection. The OSC shall:

- (1) evaluate the magnitude and severity of the discharge
- (2) assess the feasibility of removal
- (3) identify the potentially responsible parties to the extent practicable

Preliminary Assessment and Initiation of Action

NCP 40 CFR §300.305

- Goal is to achieve an effective and efficient response
- The FOSC may allow the RP to voluntarily and promptly perform removal actions where such actions will ensure an effective and immediate removal of a discharge or prevention of a substantial threat of discharge.
- The FOSC should monitor to assure effective actions
- Make continuing efforts to encourage RP actions

Preliminary Assessment and Initiation of Action

NCP 40 CFR §300.305

If the RP is not conducting proper removal ...

- The FOSC shall take appropriate response actions
- The FOSC should notify the RP of the potential liability for federal response costs incurred by the FOSC

General Pattern of Response

NCP 40 CFR § 300.320

(a) When a report of a discharge is received, the following actions should normally occur:

- (1) Investigate
 - (2) Classify
 - (3) Determine if removal is effective and immediate and being performed properly ...
-
- (i) the resources identified in the RPs' plan are being applied.
 - (ii) the efforts are in accordance with NCP

General Pattern of Response

NCP 40 CFR § 300.320

- (a)(4) Where appropriate, determine whether a State or political subdivision thereof has the capability to carry out any or all removal actions. If so, the OSC may arrange funding to support these actions.
- (a)(5) Notify the Trustees
- (b) Removal shall be considered complete when so determined by the OSC in consultation with the Governor of the affected State...

Does OSLTF Apply?

Threshold elements:

- Actual or substantial threat of a discharge
- OPA oil
- Navigable waters



When is Funding Available?

FOSC must affirmatively answer 2 questions:

1. Do the threshold elements apply?
2. Are further actions necessary to ensure effective and immediate removal, mitigation or prevention of the substantial threat or discharge?

Substantial Threat

- OSLTF may be used to respond to substantial threats of discharge
- Assessment & evaluation of incident by FOSC
- FOSC has sole authority to make these determinations
- FOSC determines when threat has been mitigated
- Determinations have significant funding and liability implications for response ops

Factors to Consider

- Likelihood of Discharge
- Proximity to Navigable Waters
- Flow Path (for land based incidents)
- Condition of Source
- Weather Impact
- Proximity to Sensitive Areas
- Need for Prompt Preventive Action

Funding Response Activities

- PRFA – Incident Management
- PRFA – Removal (Agency & its Contractors)
- MIPR – Removal (DOD)
- Contracts – OSROs, Removal Contractors
- PRFA – Wildlife Branch & Environmental Unit
- PRFA – ESA Section 7
- INRDA – “Initiate” NRD Activities, not removal (FLAT responsibility, not FOOSC)

Pollution Removal Funding Authorizations (PRFAs)



- A financial document
- Two types
 - Federal agency
 - Non-Federal agency
- Entering arguments
- PRFA amendments

Pollution Removal Funding Authorizations (cont'd)

- Primarily issued to other government agencies (OGAs – fed, state, local) to quickly obtain their services or assistance
- Can use to get goods/services obtained by OGAs through THEIR OWN contracting process to support cleanup efforts of the USCG FOSC
- “Maximum limit of authorization” - include w/total costs under case ceiling

PRFA to Fed Government Agency

Federal Agency Pollution Removal Funding Authorization

Recipient Agency	
Address	
Agency Locator Code (ALC)	
Agency DUNS	
Agency Tax ID	
Treasury Account Symbol (TAS)	

Agency information will be needed for PRFA obligation

1. **Purpose**

This document authorizes reimbursement to the Recipient Agency from the Oil Spill Liability Trust Fund or CERCLA funds for certain removal costs incurred in response to the following pollution incident, _____.

Federal Project Number/CERCLA Project Number, _____.

This funding authorization is expressly contingent on the Recipient Agency's compliance with all requirements contained herein.

2. **Approved Functions and Reimbursement Limit**

Costs will be reimbursed only for actions that are directed or approved in advance by the FOSC. Approval may be verbal or written. Assessment, restoration, rehabilitation or replacement of natural resources damaged by the spill are not covered.

Maximum limit of authorization: \$ _____

Ensure agency recognizes the authorized ceiling amount.

3. **Conditions**

See attached page(s) for scope of work, special conditions, date of performance, directions or approvals.

4. **Period of Authorization**

This authorization shall remain in effect until the completion date specified by the FOSC (which normally corresponds to the date of final removal activities).

5. **Reimbursement Procedure**

Upon completion of removal activities, the Recipient Agency will submit a SF-1080/1081 to the FOSC with detailed records of expenditures and activities for which reimbursement is sought. The agency may elect to use its own records providing an equivalent amount of documentation which has NPFC approval, or the agency may elect to use NPFC's Resource Cost Documentation package. The agency must submit the final request for reimbursement, supported by the required documentation, within 90 days following the completion date. If OMB Circular A-87 cost rates apply, cost certifications must be included. If at the end of the 90 days from final removal activities, there are any costs for which reimbursement has not been requested, written notice will be sent to the agency and 30 days later any balance remaining in the account will be deobligated.

PRFA to Fed Gov't Agency (cont'd)

Federal Agency Pollution Removal Funding Authorization

6. Accounting Data

Document Control Number:	
Accounting String:	

7. Points of Contact

Federal On-Scene Coordinator	Telephone:
	FAX:
	Email:
Recipient Agency Representative	Telephone:
	FAX:
	E-Mail:
NPFC Case Officer	Telephone:
	FAX:
	E-Mail:

8. Authorizing Official

Federal On-Scene Coordinator

Signature: _____ Date _____

Attachments: (1) Scope of Work

The accounting information is assigned using the information provided in the CANAPS messages. CG units obligate PRFA s for CG FPNs.

Ensure a scope of work is attached . FOSC 's call on activities.

PRFA to Non-Federal Government Agency

Non-Federal Agency Pollution Removal Funding Authorization

Recipient Agency	
Address	
Agency DUNS	
Agency Tax ID	

1. Purpose

This document authorizes reimbursement to the Recipient Agency from the Oil Spill Liability Trust Fund or CERCLA funds for certain removal costs incurred in response to the following pollution incident: _____

Federal Project Number/CERCLA Project Number: _____

This funding authorization is expressly contingent on the Recipient Agency's compliance with all requirements contained herein.

2. Approved Functions and Reimbursement Limit

Costs will be reimbursed only for actions that are directed or approved in advance by the FOSC. Approval may be verbal or written. Assessment, restoration, rehabilitation or replacement of natural resources damaged by the spill are not covered.

Maximum limit of authorization: \$ _____

3. Conditions

See attached page(s) for scope of work, special conditions, date of performance, directions or approvals.

4. Period of Authorization

This authorization shall remain in effect until the completion date specified by the FOSC (which normally corresponds to the date of final removal activities).

5. Reimbursement Procedure

Upon completion of removal activities, the Recipient Agency will submit a SF-1080/1081 to the FOSC with detailed records of expenditures and activities for which reimbursement is sought. The agency may elect to use its own records providing an equivalent amount of documentation which has NPFC approval, or the agency may elect to use NPFC's Resource Cost Documentation package. The agency must submit the final request for reimbursement, supported by the required documentation, within 90 days following the completion date. If OMB Circular A-87 cost rates apply, cost certifications must be included. If at the end of the 90 days from final removal activities, there are any costs for which reimbursement has not been requested, written notice will be sent to the agency and 30 days later any balance remaining in the account will be deobligated.

6. Hold Harmless and Indemnity

By performing any action or seeking any reimbursement under this funding authorization, the Recipient Agency agrees that the United States of America and all of its departments and

Agency information will be needed for PRFA obligation

Ensure agency recognizes the authorized ceiling amount.

Hold Harmless clause

PRFA to Non-Federal Government Agency (cont'd)

Non-Federal Agency Pollution Removal Funding Authorization

agencies, including, but not limited to, the U.S. Coast Guard and the Oil Spill Liability Trust Fund ("United States"), shall not be liable to any party for damage, injury or loss to persons or property resulting from the acts or omissions of Recipient Agency, its employees, agents or contractors, related to the Recipient Agency's performance of this Agreement. The Recipient agency agrees to indemnify and hold harmless the United States from all actions, claims or suits for damage, injury or loss to persons or property resulting from the acts or omissions of Recipient Agency, its employees, agents or contractors related to Recipient Agency's performance of this Agreement. This agreement to hold harmless and indemnify the United States is subject to the availability of Recipient Agency funds. The Recipient agrees in good faith to use available Agency funds and to undertake all reasonable effort to acquire such funds if not otherwise available.

7. No Agency

Nothing in this funding authorization is intended to create an agency relationship between the Recipient Agency and the United States of America (or any of its departments, agencies, or employees). Nor shall anything in this funding authorization be construed as creating an agency relationship. By performing any action or seeking any reimbursement under this funding authorization, the Recipient Agency agrees that it has not been authorized to act as an agent of the United States, and shall not act in any such capacity.

No Agency clause

8. Accounting Data

Document Control Number:	
Accounting String:	

The accounting information is assigned using the information provided in the CANAPS messages. CG units obligate PRFA s for CG FPNs.

7. Points of Contact

Federal On-Scene Coordinator	Telephone:
	FAX:
	Email:
Recipient Agency Representative	Telephone:
	FAX:
	E-Mail:
NFFC Case Officer	Telephone:
	FAX:
	E-Mail:

8. Authorizing Official

Federal On-Scene Coordinator

Signature: _____ Date _____

Attachments: (1) Scope of Work

Ensure a scope of work is attached. FOSC's call on activities.

PRFA to Non-Federal Government Agency (cont'd)

Non-Federal Agency Pollution Removal Funding Authorization

agencies, including, but not limited to, the U.S. Coast Guard and the Oil Spill Liability Trust Fund ("United States"), shall not be liable to any party for damage, injury or loss to persons or property resulting from the acts or omissions of Recipient Agency, its employees, agents or contractors, related to the Recipient Agency's performance of this Agreement. The Recipient agency agrees to indemnify and hold harmless the United States from all actions, claims or suits for damage, injury or loss to persons or property resulting from the acts or omissions of Recipient Agency, its employees, agents or contractors related to Recipient Agency's performance of this Agreement. This agreement to hold harmless and indemnify the United States is subject to the availability of Recipient Agency funds. The Recipient agrees in good faith to use available Agency funds and to undertake all reasonable effort to acquire such funds if not otherwise available.

7. No Agency

Nothing in this funding authorization is intended to create an agency relationship between the Recipient Agency and the United States of America (or any of its departments, agencies, or employees). Nor shall anything in this funding authorization be construed as creating an agency relationship. By performing any action or seeking any reimbursement under this funding authorization, the Recipient Agency agrees that it has not been authorized to act as an agent of the United States, and shall not act in any such capacity.

8. Accounting Data

Document Control Number:	
Accounting String:	

7. Points of Contact

Federal On-Scene Coordinator	Telephone:
	FAX:
	Email:
Recipient Agency Representative	Telephone:
	FAX:
	E-Mail:
NFFC Case Officer	Telephone:
	FAX:
	E-Mail:

8. Authorizing Official

Federal On-Scene Coordinator

Signature: _____ Date _____

Attachments: (1) Scope of Work

The accounting information is assigned at the unit using the information provided in the CGMS CANAPS messages. The unit will obligate the PRFA in FPD.

Scope of Work Example

Jun 07 05 12:04p

U.S. EPA

503 326 3399

P. 4

PRFA Scope of Work for E05010

This is the scope of work required under this PRFA to recover petroleum that is continuing to discharge or present a threat of discharge to waters of the US. The total PRFA ceiling is \$10,000. Below are the elements of the scope of work for this PRFA

- Safety is to take priority over all other concern
- Attempt to identify and mitigate source of the spill.
- Contain and prevent downstream migration of oil.
- Remove/ recover and properly dispose of oil and oil contaminated materials (absorbent boom)
- Establish cost tracking and provide cost documentation to the FOSC in accordance with this agreement.
- Provide brief monthly or final progress report to be included in the Pollution Reports for the FOSC that details field activities during the response and removal period.
- Dates of performance are from 04/25/05 until termination of removal activities, or otherwise as directed by the FOSC.

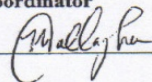
Costs, including but not limited to daily personnel hours, travel, per diem and lodging, equipment use, expendables, and disposal costs shall be documented and supported with invoices. A cost reimbursement package containing this material may be submitted to the Federal OSC periodically throughout the response or upon completion of the response. A final request for reimbursement must be submitted within 90 days following the completion date.

Federal On Scene Coordinator

Signature: _____

Title: FOSC

Date: 04/25/05



May 31, 2005

Acknowledged By State On Scene Coordinator (or representative)

Signature: _____

Title: _____

SO SC

Date: 6-6-05

Pollution Removal Funding Authorization (PRFA) Statement of Work on Removal Actions

Federal Project Number (FPN): _____
USCG Document Control Number (DCN): _____
Issuing CG/EPA FOSC: _____
Incident Name/Site Name: _____
Site ID (EPA): _____

Purpose.

The purpose of this PRFA is to provide advisory, assessment, response, oversight, technical support, data management and/or cleanup services to CG/EPA response personnel. At the discretion of the CG/EPA FOSC, a PRFA shall be issued for discharges of oil and petroleum products that pose an actual or potential threat to public health or welfare, or to the environment. When modification or amendment to this PRFA is required, the "Amendment to Pollution Removal Funding Authorization" shall be used a new task list shall be assigned if new tasking is identified.

Response Task List.

The recipient agency of this PRFA shall perform the following (as identified by the appropriate check marks below):

- Provide information currently in agency possession regarding facts relative to the discharge of oil, to include its source and cause of oil spill.
- Provide information currently in agency possession relative to identification of potentially responsible parties (PRPs).
- Analyze the nature, amount, and location of discharged materials.
- Analyze the probable direction and time of travel of discharged materials.
- Analyze whether the discharge is a worse case discharge in accordance with Section 300.324 of the National Contingency Plan (NCP).
- Identify pathways to human and environmental exposure.
- Analyze the potential impact on human health, welfare, safety, and the environment posed by the discharge of oil.
- Provide analysis of discharges posing a substantial threat to the public health or welfare of the United States.
- Analyze the potential impact on natural resources and property.
- Provide temporary or permanent stabilization prior to the mobilization of other responders.
- Provide appropriate personnel, equipment, and supplies to contain and stabilize discharges of oil to waterways or soil which are either threatening to or are actually impacting public health, welfare, and/or the environment.
- Document all site specific costs incurred by the contractor and the Recipient Agency for the response actions.
- Collect or review data such as site management practices, information from generators, photographs, historical photographic analysis, literature searches, and personal interviews for possible enforcement actions.
- Identify active or historical facility processes or operations that may have contributed to the discharge of oil.

- Develop and implement options to abate, prevent, minimize, stabilize, mitigate, eliminate or remove the threat of a release of oil to public health or welfare or the environment.
- Prepare a sampling plan which describe the number, type, and location of samples and the type of analysis (for example, sampling and analysis plans for collection of multi-media environmental samples; petrochemical product or waste oil or crude oil).
- Collect, analyze, and validate data in accordance with CG/EPA standard methods for sampling analysis.
- Collect representative oil sample(s) and submit them to the CG Marine Safety Lab (MSL) for appropriate analysis.
- Develop site specific Health and Safety Plans (HSPs).
- Observe and document state and private actions taken to conduct a response action.
- Review, prepare, and submit all required accounting records in accordance with the National Pollution Funds Center (NPFC) Technical Operating Procedures for Resource Documentation under the Oil Pollution Act of 1990.
- Submit Pollution Reports (POLREPs) to the issuing FOSC at periodic intervals as specified by the issuing FOSC.
- Provide daily progress reports and/or consultations to CG/EPA, as necessary.
- Develop health and safety procedures for response activities, such as OSHA levels of protection associated with a site.
- Recommend cleanup and disposal options.
- Review completeness of disposal documentation, such as manifests, waste profile data, and other information.
- Obtain permits from local, state, or federal agencies, associated with the contractor's response activities.
- Provide or arrange for site security to prevent unauthorized access of any person or animals to preserve public safety, such as armed or unarmed security services.
- Analyze Potentially Responsible Party (PRP) response documents and actions and recommend appropriate revisions.
- Analyze the accuracy, timeliness, and completeness of the PRP reports and associated actions.
- Document PRP activities and provide oversight.
- Identify concerned local and elected officials.
- Conduct Deed and Title searches, as appropriate.
- Conduct waste profile analysis.
- Perform and advise on wildlife capture, recovery, and stabilization.
- Perform other duties as specified below:

PRFA Amendment

Amendment to Pollution Removal Funding Authorization

Issued to (Recipient Agency):
Address:

By (FOSC):

Date of Original Authorization:

Document Control Number of Original Authorization:

The Authorization cited above is amended as follows:

Document Control Number of this Amendment:

Authorizing Official

Signature: _____

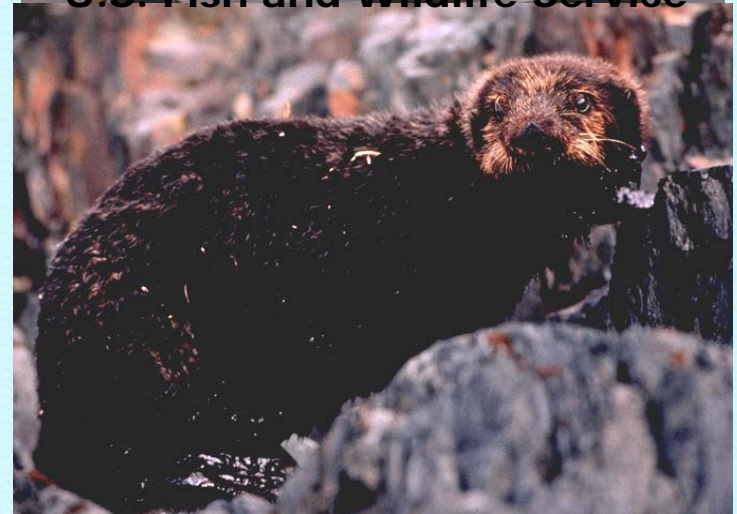
Title: Federal On Scene Coordinator Date: _____

*Note what is being changed -
ceiling increase or decrease,
scope of work*



OGA Cost Documentation

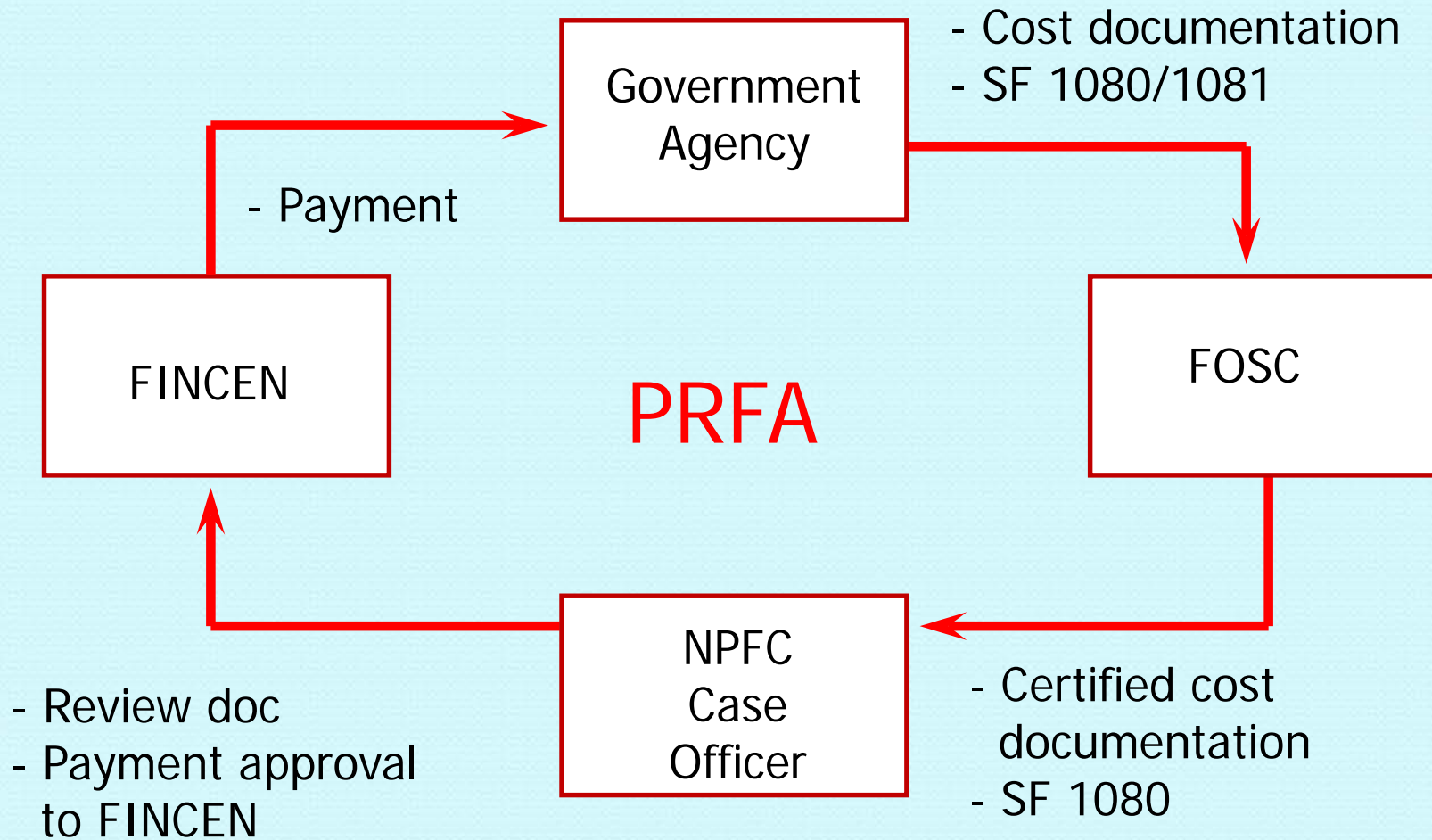
- OGA/USCG = the same amount of detail is required
- Can use the 5136 gov't forms or other forms
- PRFA must pre-authorize funding
- SF1080/81 used as invoice



PRFA - Private Contractor?

- ABSOLUTELY NOT!
- Hire with a contract!
- Agencies w/PRFAs can subcontract w/ commercial entities per Agency rules
- OSLTF reimburses Agency for its contractor costs

Payment Process and Cost Doc Flow for a PRFA



PRFA Pitfalls



- Mixing removal & NRDA activities
- Activities outside agreed SOW
- Don't back date
- Failure to amend PRFA ceiling
- “What was this person doing?”
- No invoice
- Forget to submit to FOOSC for certification

Claims Can Be Submitted For:

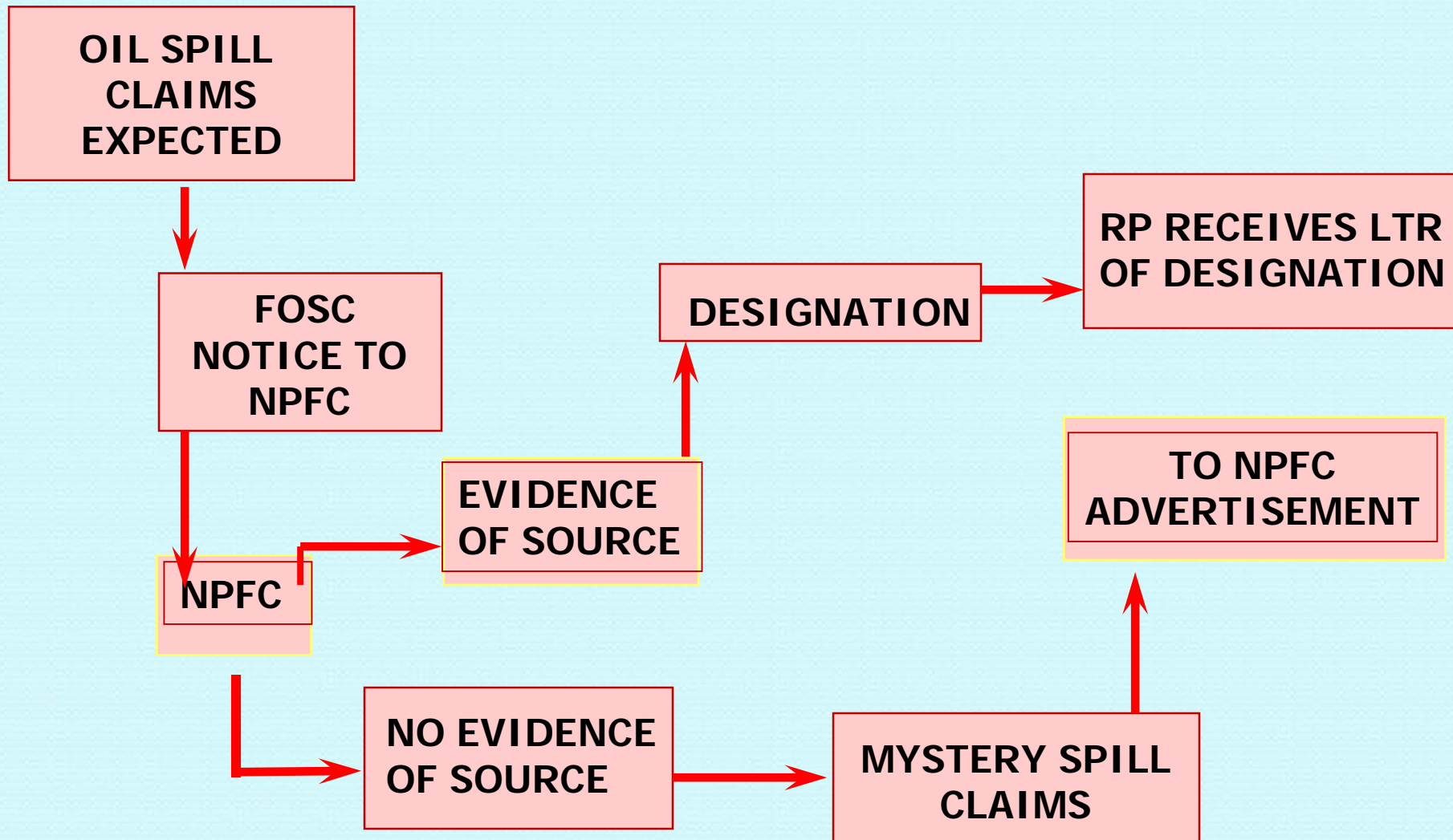
- Uncompensated removal costs
- Damages to natural resources
- Damages to real or personal property
- Loss of profits and earning capacity
- Loss of subsistence use of natural resources
- Loss of government revenues
- Increased cost of public services
- RP defense and limit of liability claims



Uncompensated Removal Costs

- Any claimant
- Removal actions must be consistent with the NCP
- Main criteria is whether the FOOSC was notified of, and/or whether the FOOSC would have, or did authorize, removal actions

Claims Designation of Source



NPFC Claims Guidebook

Claimant's Guide

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

**U.S. Coast Guard
National Pollution Funds Center
4200 Wilson Boulevard, Suite 1000
Arlington, VA 22203-1804**

April 2003

Presentment

- Claims must first be submitted to RP – has 90 days to settle. If no settlement after 90 days (or any time after the RP denies the claim in writing), claim may then be submitted to NPFC
- State may submit uncompensated removal claim directly to NPFC – only exception
 - OSC coordination/NCP consistency

NPFC Standard Claim Form – Page 1

National Pollution Funds Center

4200 Wilson Blvd., Suite 1000
Arlington, VA 22203-1804
(202) 493-6830 or (800) 280-7118

Standard Claim Form

Page 1

This form may be used for submitting claims to the U.S. Coast Guard, National Pollution Funds Center, for potential compensation from the Oil Spill Liability Trust Fund for uncompensated removal costs or damages resulting from an incident under the Oil Pollution Act of 1990.

1. **Claimant Name:** _____
Address: _____

Social Security #: _____ Home Tel. #: () _____
Tax I.D.#: _____ Work Tel. #: () _____

2. **Incident Information:**
Date: _____ Time: _____
Name of vessel or facility causing damage: _____
Geographic location of incident: _____
Brief description of the incident: _____

3. **Type(s) of claim(s) and total amount for costs and damage(s) claimed: \$** _____
____ Removal Costs _____ Subsistence Use _____ Profits and Earning Capacity
____ Natural Resources _____ Public Services
____ Government Revenue _____ Real or Personal Property

4. **Has claimant communicated with the responsible party?** No Yes

5. **Has the claim been submitted to the responsible party?** No Yes Date Submitted _____

6. **If the claim has been submitted to the responsible party, what action has been taken?**
No Action _____ Denial _____ Paid in Part _____ Other (explain): _____

7. **Has claimant commenced any action in court against the responsible party?** No Yes
If yes, provide the name, address, phone number of your attorney, the court in which action is pending and the civil action number

8. **Has claimant submitted or planned to submit the loss to an insurer?** No Yes
If yes, provide the name, address, and phone number of the insurer, and the policy number _____



Time Limits on Claim Submissions

- Removal cost claims must be submitted w/in 6 years after the completion date of all removal activities
- Damage claims must be submitted w/in 3 years after the date of the damage & its connection w/the spill were reasonably discoverable

NPFC Points of Contact

- CM Team:

- 4 – Pat Ryan 202 – 795 – 6088

- CERCLA (CG FOSC cases)

- Marty Overbeek “ “ 6033

- Claims

- Removal – Donna Hellberg “ 6097

- Damage – Bob Rioux “ 6104

- NRD – Fredy Hernandez “ 6054

NPFC Case Management Division

Director (cm)

USCG National Pollution Funds Center

2703 Martin Luther King JR Ave SE

Washington, DC 20593-7605

NPFC : (800) 358-2897

<http://www.uscg.mil/npfc/>

COMCOGARD NPFC WASHINGTON DC

Questions ?

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Pat Ryan
Patrick.E.Ryan@uscg.mil