

### Subpart D—Administration of the Pollution Fund

#### § 153.401 Purpose.

This subpart prescribes policies, procedures, and reporting requirements for the payment from and deposit into the Fund established pursuant to section 311(k) of the Act.

#### § 153.403 Applicability.

The provisions of this subpart apply to:

- (a) Each Federal and State agency that desires reimbursement from the Fund for costs incurred during a removal activity; and
- (b) The owner or operator of the vessel or onshore or offshore facility from which a discharge occurs that requires Federal removal activity.

#### § 153.405 Liability to the pollution fund.

The owner or operator of the vessel or onshore or offshore facility from which a discharge occurs that requires Federal removal activity is liable to the pollution fund for the actual costs of Federal and State agencies, including the employment and use of personnel and equipment, not to exceed the limits established by sections 311(f) and (g) of the Act.

#### § 153.407 Payments or reimbursements from the pollution fund.

(a) The following costs incurred during performance of a Phase III activity as defined in Subpart E of the National Contingency Plan, or a removal action as defined in Subpart F of the National Contingency Plan, are reimbursable to Federal and State agencies when authorized by the appropriate OSC under the authority of section 311(c) of the Act, and are reimbursable to Federal agencies when authorized by the appropriate Coast Guard or EPA official in the case of the summary removal or destruction of a vessel, other “intervention” (as defined in §153.105(e) of this part), or any other action under the authority of section 311(d) of the Act or the Intervention on the High Seas Act (33 U.S.C. 1471 *et seq.*):

(1) Costs found to be reasonable by the Coast Guard incurred by government industrial type facilities, includ-

ing charges for overhead in accordance with the agency’s industrial accounting system.

(2) Actual costs for which an agency is required or authorized by any law to obtain full reimbursement.

(3) Costs found to be reasonable by the Coast Guard incurred as a result of removal activity that are not ordinarily funded by an agency’s regular appropriations and that are not incurred during normal operations. These costs include, but are not limited to, the following:

(i) Travel (transportation and per diem) specifically requested of the agency by the On-Scene Coordinator.

(ii) Overtime for civilian personnel specifically requested of the agency by the On-Scene Coordinator.

(iii) Incremental operating costs for vessels, aircraft, vehicles, and equipment incurred in connection with the removal activity.

(iv) Supplies, materials, and equipment procured for the specific removal activity and fully expended during the removal activity.

(v) Lease or rental of equipment for the specific removal activity.

(vi) Contract costs for the specific removal activity.

(4) Claims payable under part 25, subpart H of this title.

(b) The District Commander may authorize the direct payment of the costs found to be reasonable under paragraph (a)(3) of this section. Direct payment may only be made to Federal or State agencies, or to Federal contractors or suppliers. Direct payments to State or local agency contractors or suppliers will not be authorized.

(c) The Pollution Fund is not available to pay any foreign, Federal, State or local government or agency for the payment or reimbursement of its costs incurred in the removal of oil or hazardous substances discharged from a vessel or facility that it owns or operates.

NOTE: Federal procurement procedures governing contracts to purchase property and services apply to costs incurred as a result of removal activity. Where the public exigency will not permit the delay incident to advertising, purchases and contracts are