

### § 136.103

### 33 CFR Ch. I (7-1-11 Edition)

date the claim is actually received at the address in the directive.

[CGD 91-035, 57 FR 36316, Aug. 12, 1992; 57 FR 41104, Sept. 9, 1992, as amended by USCG-2009-0416, 74 FR 27441, June 10, 2009]

#### § 136.103 Order of presentment.

(a) Except as provided in paragraph (b) of this section, all claims for removal costs or damages must be presented first to the responsible party or guarantor of the source designated under § 136.305.

(b) Claims for removal costs or damages may be presented first to the Fund only—

(1) By any claimant, if the Director, NPFCC, has advertised, or otherwise notified claimants in writing, in accordance with § 136.309(e);

(2) By a responsible party who may assert a claim under section 1008 of the Act (33 U.S.C. 2708);

(3) By the Governor of a State for removal costs incurred by that State; or

(4) By a United States claimant in a case where a foreign offshore unit has discharged oil causing damage for which the Fund is liable under section 1012(a) of the Act (33 U.S.C. 2712(a)).

(c) If a claim is presented in accordance with paragraph (a) of this section and—

(1) Each person to whom the claim is presented denies all liability for the claim; or

(2) The claim is not settled by any person by payment within 90 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to § 136.309(d), whichever is later, the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Fund.

(d) No claim of a person against the Fund will be approved or certified for payment during the pendency of an action by the person in court to recover costs which are the subject of the claim.

[CGD 91-035, 57 FR 36316, Aug. 12, 1992; 57 FR 41104, Sept. 9, 1992]

#### § 136.105 General requirements for a claim.

(a) The claimant bears the burden of providing all evidence, information, and documentation deemed necessary

by the Director, NPFCC, to support the claim.

(b) Each claim must be in writing for a sum certain for compensation for each category of uncompensated damages or removal costs (as described in Subpart C of this part) resulting from an incident. If at any time during the pendency of a claim against the Fund the claimant receives any compensation for the claimed amounts, the claimant shall immediately amend the claim.

(c) Each claim must be signed in ink by the claimant certifying to the best of the claimant's knowledge and belief that the claim accurately reflects all material facts.

(d) In addition to the other requirements of this section, any claim presented by a legal representative of the claimant must also be signed by the legal representative and—

(1) Be presented in the name of the claimant;

(2) Show the title or legal capacity of the representative; and

(3) Provide proof of authority to act for the claimant.

(e) Each claim must include at least the following, as applicable:

(1) The full name, street and mailing addresses of residence and business, and telephone numbers of the claimant.

(2) The date, time, and place of the incident giving rise to the claim.

(3) The identity of the vessel, facility, or other entity causing or suspected to have caused the removal costs or damages claimed and the basis for such identity or belief.

(4) A general description of the nature and extent of the impact of the incident, the costs associated with removal actions, and damages claimed, by category as delineated in Subpart C of this part, including, for any property, equipment, or similar item damaged, the full name, street and mailing address, and telephone number of the actual owner, if other than the claimant.

(5) An explanation of how and when the removal costs or damages were caused by, or resulted from, an incident.

(6) Evidence to support the claim.