

§ 133.9

any event, may not exceed \$250,000 per incident;

(2) Must be for removal costs consistent with the National Contingency Plan; and

(3) Must be reasonable for the removal actions proposed, considering such factors as quantity and composition of the oil, weather conditions and customary costs of similar services in the locale.

(b) The funds requested are obligated only to the extent they are determined to be for immediate removal actions which are reasonable and otherwise eligible for payment under this part.

§ 133.9 Requests: Where made.

Requests for access to the Fund under §133.5 must be made by telephone or other rapid means to the OSC.

§ 133.11 Request: Contents.

In making a request for access to the Fund, the person making the request shall—

(a) Indicate that the request is a State access request under 33 CFR part 133;

(b) Give his or her name, title, department, and State;

(c) Describe the incident in sufficient detail to allow a determination of jurisdiction, including at a minimum the date of the occurrence, type of product discharged, estimated quantity of the discharge, body of water involved, and proposed removal actions for which funds are being requested under this part; and

(d) Indicate the amount of funds being requested.

§ 133.13 Removal actions eligible for funding.

To be eligible for funding under this part, each removal action must meet the following:

(a) Must be for an incident, occurring after August 18, 1990, which resulted in a discharge, or the substantial threat of a discharge, of oil into or upon the navigable waters or adjoining shorelines.

(b) Must comply with the National Contingency Plan.

(c) Must be an immediate removal action.

33 CFR Ch. I (7–1–12 Edition)

§ 133.15 Determination of eligibility for funding.

Upon receipt of the information under §133.11 and, if necessary, from other sources determined to be appropriate at his or her discretion, the OSC will determine whether the proposed removal actions meet the requirements of §133.13. If necessary, the OSC may seek further clarification of the proposed actions from the State official. The OSC shall expeditiously notify the State official and the Director, NPFC, of his or her decision.

§ 133.17 Conduct of removal actions.

Removal actions funded under this part must be coordinated with the OSC and conducted in accordance with the National Contingency Plan.

§ 133.19 Recordkeeping.

(a) The State official shall maintain detailed records of expenditures made from the funds provided under this part, including records of—

(1) Daily expenditures for each individual worker, giving the individual's name, title or position, activity performed, time on task, salary or hourly rate, travel costs, per diem, out-of-pocket or extraordinary expenses, and whether the individual is normally available for oil spill removal;

(2) Equipment purchased or rented each day, with the daily or hourly rate;

(3) Miscellaneous materials and expendables purchased each day; and

(4) Daily contractor or consultant fees, including costs for their personnel and contractor-owned or rented equipment, as well as that of any subcontractor.

(b) The State official shall submit a copy of these records and a summary document stating the total of all expenditures made to the NPFC official specified in §133.25(c) within thirty days after completion of the removal actions. A copy of these documents shall also be submitted to the cognizant OSC.

(c) Upon request of the OSC or the NPFC, the State official shall make the original records available for inspection.

(d) If, after inspecting the records, the Director, NPFC, determines that expenditures by a State official from

Coast Guard, DHS

§ 135.1

funds obligated under this part were not eligible for funding under this part and the expenditures were not made with the good faith understanding that they were eligible under this part, the Director, NPFC, may seek reimbursement to the Fund from the State.

§ 133.21 Records retention.

(a) The State official shall maintain all records for ten years following completion of the removal actions.

(b) If any litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been started before the expiration of the ten-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later.

§ 133.23 Investigation to determine the source and responsible party.

(a) The State official shall promptly make a thorough investigation to determine the source of the incident and the responsible party.

(b) Upon completion of the investigation, the State official shall forward the results of the investigation and copies of the supporting evidence identifying the source and the responsible party to both the cognizant OSC and the NPFC official specified in § 133.25(c).

§ 133.25 Notification of Governor's designee.

(a) If the Governor of a State anticipates the need to access the Fund under this part, he or she must advise the NPFC in writing of the specific individual who is designated to make requests under this part.

(b) This designation must include the individual's name, address, telephone number, and title or capacity in which employed.

(c) The information required by paragraph (b) of this section must be forwarded to the Director National Pollution Funds Center, NPFC CM, MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100.

[CGD 92-014, 57 FR 53969, Nov. 13, 1992, as amended by USCG-2009-0416, 74 FR 27440, June 10, 2009]

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

Subpart A—General

Sec.

- 135.1 Purpose.
- 135.3 Applicability.
- 135.5 Definitions.
- 135.7 Delegation—Fund Administrator.
- 135.9 Fund address.

Subpart B—Levy of Fees

- 135.101 Purpose.
- 135.103 Levy and payment of barrel fee on OCS oil.

Subpart C—Financial Responsibility for Offshore Facilities

- 135.201 Applicability.
- 135.203 Amount required.
- 135.204 Submission of evidence.
- 135.205 Methods of establishing.
- 135.207 Insurance as evidence.
- 135.209 Guaranty as evidence.
- 135.210 Indemnity as evidence.
- 135.211 Surety bond as evidence.
- 135.213 Qualification as self-insurer.
- 135.215 Certification.
- 135.219 Notification of changes affecting certification.
- 135.221 Reapplication for certification.
- 135.223 Certificates, denial or revocation.

Subpart D—Notification of Pollution Incidents

- 135.303 Definitions.
- 135.305 Notification procedures.
- 135.307 Notification contents.

Subpart E—Access, Denial, and Detention

- 135.401 Access to vessel, Certificates of Financial Responsibility.
- 135.403 Sanctions for failure to produce vessel Certificates of Financial Responsibility.
- 135.405 Appeal provisions.

AUTHORITY: 33 U.S.C. 2701-2719; E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1, para. 2(80).

SOURCE: CGD 77-055, 44 FR 16868, Mar. 19, 1979, unless otherwise noted.

Subpart A—General

§ 135.1 Purpose.

(a) This part prescribes the policies, procedures, and administrative practices regarding offshore oil pollution liability and compensation, including