

Coast Guard, DHS

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characteristics of the sorbent, and availability of a mechanical method for containment and recovery.

(b) Control the source of discharge, prevent further discharges, and halt or slow the spread of the discharge by mechanical methods or sorbents or both to the maximum extent possible;

(c) Recover the discharged oil from the water or adjoining shorelines by mechanical or manual methods or both to the maximum extent possible;

(d) Use chemical agents only in accordance with the provisions of Subpart H of the National Contingency Plan and with the prior approval of the Federal OSC; and

(e) Dispose of recovered oil and oil contaminated materials in accordance with applicable State and local government procedures.

[CGD 73-185, 41 FR 12630, Mar. 25, 1976, as amended by CGD 84-067, 51 FR 17966, May 16, 1986]

§ 153.307 Penalties.

Any person who fails or refuses to comply with the provisions of this part, or to comply with an order issued by the Federal On-Scene Coordinator under 33 U.S.C. §§ 1321(c) or (e)(1)(B), is liable for a civil penalty per day of violation or an amount equal to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure.

[USCG-1998-3799, 63 FR 35531, June 30, 1998]

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, including 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.

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(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 negotiated pursuant to 10 U.S.C. 2304(a)(2) or 41 U.S.C. 252(c)(2), as applicable.

[CGD 73-185, 41 FR 12630, Mar. 25, 1976, as amended by CGD 84-067, 51 FR 17967, May 16, 1986]

§ 153.411 Procedures for payment of judgments.

An owner or operator of a vessel or an onshore or offshore facility who obtains a judgment against the United States under section 311(i) of the Act may have the judgment satisfied by requesting payment of the judgment in writing from the Commandant (CG-094), 2100 2nd St., SW., Stop 7238, Washington, DC 20593-7238. This request must be accompanied by a copy of the

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judgment and must designate to whom payment should be made.

[CGD 73-185, 41 FR 12630, Mar. 25, 1976, as amended at USCG-2010-0351, 75 FR 36284, June 25, 2010]

§ 153.413 Deposit of money into the fund.

Any person liable for the payment of the following shall remit payment by check or postal money order, payable to the U.S. Coast Guard, to the cognizant District Commander, or to the Commandant for deposit into the Pollution Fund as prescribed in section 311(k) of the Act:

(a) A fine or penalty imposed, assessed, or compromised under section 311 of the Act, including the proceeds of a bond or other surety obtained pursuant to section 311(b)(6).

(b) A claim asserted by the cognizant District Commander for costs recoverable under sections 311 (f) and (g) of the Act.

(c) A judgment obtained by the United States for costs recoverable under sections 311 (f) and (g) of the Act.

§ 153.415 Cost summary reports.

As soon as practicable after completion of an action authorized under section 311 (c) or (d) of the Act or the Intervention on the High Seas Act, the OSC submits a cost summary report to the cognizant District Commander that includes:

(a) Names of agencies and contractors authorized to participate in the action;

(b) A general description of the function performed by each participating agency and contractor;

(c) An estimate of the cost of each function performed by each participating agency and contractor; and

(d) A copy of contracts, memoranda, or other documents pertaining to the functions performed by the participating agencies and contractors.

[CGD 73-185, 41 FR 12630, Mar. 25, 1976, as amended by CGD 84-067, 51 FR 17967, May 16, 1986]