

**Texas General Land Office  
Oil Spill Prevention & Response  
Program Area**

# **Oil Spill Claim Forms and Guidance**



Prepared by the Oil Spill Prevention & Response Division of the Texas General Land Office  
[www.glo.state.tx.us](http://www.glo.state.tx.us)

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# **Table of Contents**

**I. Introduction**

**II. Basic Definitions**

**III. Claim Requirements**

**IV. Claim Forms**

**V. 31 Texas Administrative Code, Section 19.53**

**VI. Oil Spill Prevention & Response Act of 1991  
Sections 40.157-40.160**

## I. Introduction

The Oil Spill Prevention and Response Act of 1991 (OSPRA) established a coastal protection fund that can be used to reimburse those who have incurred response costs or suffered damages due to an oil spill. This document provides information for those who would like to make a claim against the fund for response costs and damages.

**Important note: If the claimant has filed or will file a lawsuit which seeks recovery of expenses that may be eligible for reimbursement from the Coastal Protection Fund, those expenses cannot be reimbursed by the GLO until the lawsuit has been resolved. Please call the GLO if you have questions about this policy.**

**Response costs:** OSPRA allows discharge cleanup organizations or other persons who appropriately respond to an unauthorized discharge of oil to make a claim for reimbursement for their costs.

**Damages:** OSPRA 40.003(7)(A) defines damages to mean compensation to persons or entities who suffer certain losses or injuries as a result of an unauthorized discharge of oil.

**Claim Forms:** All forms required are included as attachments to this guide. They may be copied and used for more than one claim. If a responsible party has been designated, presentation of the claim to the responsible party is a prerequisite to presenting a claim to the GLO. Claimants must also attach documentation that this prerequisite has been satisfied.

**Submission Information:** Forward all claims to:

Texas General Land Office  
Oil Spill Prevention & Response Division  
1700 North Congress Avenue, Room 340  
Austin, TX 78701

**Questions:** Call the GLO Oil Spill Prevention and Response Division claims officer @ 512-475-1575.

## II. Basic Definitions

**Response/removal costs**: The costs of abating, containing and removing the spilled oil. This does not include costs for salvaging.

**Loss of income, profits, or earning capacity**: A person who can prove that the oil spill impacted their livelihood can seek reimbursement from the Coastal Protection Fund. This includes but is not limited to, the following persons:

- a. Holders of an oyster lease;
- b. Owners, operators, or employees of commercial fishing, oystering, crabbing, or shrimping vessels;
- c. Owners, operators or employees of seafood processing companies and;
- d. Other persons similarly economically reliant on the use or acquisition of natural resources for any direct, documented loss of income, profits, or earning capacity from the inability of the claimant to use or acquire natural resources arising solely from injury to the natural resources from an unauthorized discharge of oil.

**Direct loss of revenue, taxes or net costs of increased entitlements or public services**: This is for claims by state or local governments. These entities should call the GLO if more information is required.

**Personal Property**: Personal goods or materials (ex: vessels) damaged by the oil spill but excludes land owned or leased by the claimant.

**Real Property**: Damage to land. This may be claimed by landowners or lessees.

**Responsible Party**: The owner or operator of a vessel or terminal facility from which an unauthorized discharge of oil emanates or threatens to emanate. In the case of an abandoned vessel or terminal facility, the person who would have been responsible immediately prior to the abandonment. Any other person who causes, allows, or permits an unauthorized discharge of oil.

For additional information see Section 40.003(20) of OSPRA.

### III. Claim Requirements

**General:** This section provides some important reminders that will assist you in assuring your claim is properly completed, thus ensuring its fastest possible resolution.

**The GLO will NOT consider any claim filed by a claimant who is pursuing substantially the same claim through litigation or their insurer.**

**Prior Approval:** Any person or discharge cleanup organization that renders assistance in abating, containing, or removing pollution from any unauthorized discharge of oil may receive compensation from the fund for response costs, provided the commissioner (or his designated representative – the State On-Scene Coordinator) approves compensation prior to the assistance being rendered. However, the commissioner, on petition and for good cause shown, may waive the prior approval prerequisite.

**Proof:** Claimants must provide the GLO with satisfactory proof of the response costs and/or damages incurred. Claimants must also provide copies of all invoices/claims that have been presented to the Responsible Party, insurer, or other entities for payment.

**Claim Submission Period:** A claim to the Coastal Protection Fund is presented when the GLO actually receives it. Claimants must present claims to the GLO within 180 days from the date the claim is first eligible to be filed with the GLO. The GLO may extend the 180-day period if the claimant cannot present it within that time period for reasons beyond the claimant's control. A late claim must include an explanation of the conditions that caused the claim to be presented after the 180-day period.

(Example – If you have submitted your claim to the Responsible Party and have not received payment or been contacted by the RP in 30 days, your claim is now eligible to be filed with the GLO.)

**Claims Process:** If there is a designated responsible person, all claims must first be presented to the designated responsible person if one exists.

- (a) If the claim is for \$50,000 or less and is not reasonably responded to within 30 days of presentation to the designated responsible person, the claimant may present the claim to the GLO.
- (b) If the claim is for over \$50,000, and is not reasonably responded to within 90 days of presentation to the designated responsible person, the claimant must

present the claim to the federal fund prior to the presentation to the GLO. If a claim presented to the federal fund is not settled within 60 days of presentation, the claimant may then present it to the GLO.

- (c) If there is no designated responsible person, claims of \$50,000 or less may be presented to the GLO first. Claims over \$50,000 must be presented to the federal fund first. Any such claim not reasonably responded to within 60 days may then be presented to the GLO.

Texas General Land Office  
CLAIM FORM -A-

Page 1 of 3

**NOTICE:** The GLO will NOT consider any claim filed by a claimant who is pursuing substantially the same claim through litigation or their insurer. All claims to the Coastal Protection Fund must be submitted within 180 days from the date the claim is first eligible to be filed with the GLO.

(Please print or type)

Texas General Land Office's Spill Number: \_\_\_\_\_

Federal Project Number (United States Coast Guard): \_\_\_\_\_

Claimant Name: \_\_\_\_\_

Address: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Tax I.D. Number: \_\_\_\_\_

Home Telephone #: ( ) \_\_\_\_\_ Work Telephone # ( ) \_\_\_\_\_

Spill Information:

Date \_\_\_\_\_ Time \_\_\_\_\_

Responsible person/party: \_\_\_\_\_

Location of the spill: \_\_\_\_\_

County: \_\_\_\_\_

**SUMMARY OF CLAIM**

(See the GLO Oil Spill Damage Claims Procedures booklet for explanation of terms)

Check the appropriate loss that occurred:

Response/Removal Cost \_\_\_\_\_ Real Property \_\_\_\_\_

Personal Property \_\_\_\_\_ Loss of Profits or Earning Capacity \_\_\_\_\_

**Total Amount Claimed: \$** \_\_\_\_\_

Complete a copy of Claim Form "B" for each box checked above. Also attach any documents related to the claim that will serve to substantiate the claim. Include items such as, but not limited to, proof of the oil spill and the damages being claimed, invoices to the RP, correspondence with the RP, proof of payments, proof of costs, photos, and waste disposal documentation.

**GLO CLAIM FORM -A-  
GENERAL CLAIM INFORMATION**

**Page 2 of 3**

1. Is there a Responsible Party for this oil spill? Yes \_\_\_\_\_ No \_\_\_\_\_  
**(If no, proceed to question # 5)**

2. What date was your claim first submitted to the Responsible Party: \_\_\_\_\_  
**(Note: Please attach a copy of such and any other written communications with the RP concerning this claim)**

3. If the claim is for \$50,000 or less, have 30 days passed since you submitted to the RP?:  
Yes \_\_\_\_\_ No \_\_\_\_\_  
**(If no, your claim is not yet eligible for submission - Do not continue this process)**

If the claim is for more than \$50,000, have 90 days passed since you submitted to the RP?:  
Yes \_\_\_\_\_ No \_\_\_\_\_  
**(If no, your claim is not yet eligible for submission - Do not continue this process)**

4. How has the Responsible Party responded to your claim:  
No Action \_\_\_\_\_ Denial \_\_\_\_\_ Paid in Part \_\_\_\_\_  
Other (explain):

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5. Has the claim been submitted to the United States Coast Guard, National Pollution Funds Center for payment?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, provide date submitted and attach documentation: \_\_\_\_\_

6. Have you commenced OR do you intend to commence any action in court against the RP for the damages being claimed? Yes \_\_\_\_\_ No \_\_\_\_\_  
**(If yes, please call the claims officer at 512-475-1575 prior to continuing this process.)**

7. Have you collected OR do you intend to collect the damages being claimed through an insurer?:  
Yes \_\_\_\_\_ No \_\_\_\_\_  
**(If yes, please call the claims officer at 512-475-1575 prior to continuing this process.)**

8. Have you received or do you expect to receive a payment from any person as a result of the spill?:  
Yes \_\_\_\_\_ No \_\_\_\_\_  
**(If yes, please attach an explanation sheet to your claim.)**



**GLO CLAIM FORM -A-  
YOU MUST COMPLETE, SIGN, AND HAVE THIS FORM NOTARIZED**

Page 3 of 3

I, the undersigned Claimant, agree that upon acceptance of any compensation from the Texas General Land Office (GLO), I will cooperate fully with GLO in any claim or action by the GLO to recover the compensation from the responsible person. Claimant agrees to provide, at the request of the GLO, any documentation, evidence, testimony, or other assistance needed by the GLO to recover the compensation from the responsible person. **If Claimant accepts payment and subsequently recovers any payment from any other entity for response costs or damages covered by this claim, Claimant agrees to reimburse the GLO immediately for response costs or damages covered by this claim, including any interest paid to claimant.**

As specified in OSPRA 40.160(d), Claimant agrees that if he/she accepts an award from the GLO, the GLO is subrogated to all rights and causes of action of the Claimant arising from the unauthorized discharge and covered by the award.

**Claimant certifies that this claim is NOT being pursued through any other claim, suit, or proceeding.**

Claimant certifies that, to the best of his/her knowledge and belief, information contained in this claim represents all material facts and is true. Claimant understands the misrepresentation of facts is subject to prosecution under applicable State and Federal law.

\_\_\_\_\_  
Claimant's Signature

\_\_\_\_\_  
Date

STATE OF TEXAS \*

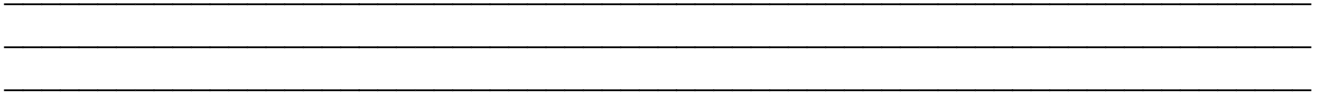
COUNTY OF \_\_\_\_\_ \*

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_,

\_\_\_\_\_  
Notary Public, State of Texas

My commission expires: \_\_\_\_\_





**GLO CLAIM FORM -B- WITNESS INFORMATION**

**Page 2 of 2**

Please provide the following information for any witness who personally saw the damages from the spill. Witnesses can be government or insurance company representatives and/or private citizens.

Name: \_\_\_\_\_  
Telephone Number : \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
Telephone Number : \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
Telephone Number : \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_  
Telephone Number : \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If any witnesses have provided written statements to the Claimant, please attach them.**

**If you have any questions regarding your claim, please call 512-475-1575.**

**Submit forms to : Texas General Land Office  
Oil Spill Prevention & Response Division  
Attn: Claims Dept., Ste. 340  
1700 N. Congress Ave.  
Austin, TX 78701**

## V. 31 Texas Administrative Code, Section 19.53

<b>TITLE 31</b>	<b>NATURAL RESOURCES AND CONSERVATION</b>
<b>PART 1</b>	<b>GENERAL LAND OFFICE</b>
<b>CHAPTER 19</b>	<b>OIL SPILL PREVENTION AND RESPONSE</b>
<b>SUBCHAPTER D</b>	<b>COMPENSATION AND LIABILITY</b>
<b>RULE §19.53</b>	<b>Claims Procedures</b>

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(a) OSPRA established the fund to provide immediately available compensation for response costs incurred and damages suffered as a result of an unauthorized discharge. The intent of this section is to avoid economic displacement and to simplify resolution of liability issues by creating procedures conducive to settlement and adjustment of claims in as orderly, efficient, and timely a manner as possible. "Reasonably responded" for the purposes of this section means that the receipt of the claim has been acknowledged, that claimant has been advised of the need for any further documentation to complete claims processing, and that the claimant has been advised in writing whether or not the responsible person will make an offer of settlement on any part or all of the claim and the date by which such offer will be made.

(b) If there is a designated responsible person, all claims must be presented to the designated responsible person first.

(1) If the claim is for \$50,000 or less and is not reasonably responded to within 30 days of presentation to the designated responsible person, the claimant may present the claim to the General Land Office (GLO).

(2) If the claim is for over \$50,000 and is not reasonably responded to within 90 days of presentation to the designated responsible person, the claimant must present the claim to the federal fund prior to the presentation to the GLO. If a claim presented to the federal fund is not settled within 60 days of presentation, the claimant may then present it to the GLO.

(c) If there is no designated responsible person, either because the identity of the person responsible for the unauthorized discharge is unknown or a proposed designation is challenged, claims of \$50,000 or less may be presented to the GLO first. Claims over \$50,000 must be presented to the federal fund first. Any such claim not reasonably responded to within 60 days may then be presented to the GLO.

(d) A claim is presented when the GLO actually receives it. Claimants must present claims to the GLO within 180 days from the date the claim is first eligible to be filed with the GLO. When necessary to meet this deadline, the claimant may present the claim even though it is under consideration by the responsible person or the federal fund. The GLO may extend the 180-day period if the claimant cannot present it within that time for reasons beyond the claimant's control.

(e) Claims must be in writing, must be signed and verified by the claimant or the claimant's agent or legal representative, and must include the following information:

(1) whether it is for damages or response costs or both;

(2) the cause, nature, and dollar amount of the claim;

(3) whether the claim is covered by insurance or other benefits for which the claimant is eligible;

(4) the amount and nature of any compensation or earnings the claimant received as a consequence of the unauthorized discharge; and

(5) an oath or affirmation that the same claim is not being pursued through any other claim, suit, settlement, or proceeding.

- (f) The GLO may prescribe appropriate claim forms. Claimants must present claims to the GLO accompanied by evidence supporting the claim and proof that all prerequisites to filing a claim with the GLO have been satisfied, including a copy or summary of any offer of settlement or payment by the responsible person or the federal fund. Claimant must provide the GLO with a copy of the claim previously submitted to the designated responsible person. The GLO may require additional information or evidence to support a claim.
- (g) The GLO shall review the evidence and any settlement offer and may require or consider additional evidence or proof from the claimant or from the designated responsible person.
- (h) The GLO may, in its discretion, treat separately each class of damages or costs set out in a claim. The GLO may make partial awards of damages or costs set out in the claim based on separate classes of damages or costs or for other good cause.
- (i) If the GLO determines that the settlement offer was reasonable, and the claimant did not make reasonable effort to settle, or that the evidence submitted is insufficient to support the claim, the GLO will deny the claim. The GLO will inform the claimant and the designated responsible person of denial in writing. After denial, if a claimant attempts reasonable efforts to settle and the person responsible or the federal fund does not tender a reasonable settlement offer, the GLO may allow the claim to be reinstated.
- (j) If the GLO determines a settlement offer is not reasonable, or if a settlement offer is not a prerequisite to the claim, the GLO will propose an award amount. The GLO will notify the claimant and the responsible person of the proposal in writing.
- (k) The GLO will hold a hearing on the proposed award if either the claimant or the designated responsible person files a written request for a hearing within 20 days of issuance of the proposal.
- (l) If no hearing is requested within 20 days, or after the hearing if one is requested, the GLO will either notify the claimant and the designated responsible person of denial or tender the award to the claimant and notify the designated responsible person of the award amount. The claimant may reject the tender by returning it to the GLO within ten days of receipt.
- (m) Acceptance of an award is final settlement as to the claimant and constitutes a full release as to the claimant. If the tender is refused or not accepted within 10 days, the claimant is ineligible for compensation from the fund for the claim.
- (n) Compensation may be claimed and awarded for costs necessarily incurred for claims preparation and presentation.
- (o) The GLO will not consider any claim filed by a claimant who is pursuing substantially the same claim through litigation.

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**Source Note:** The provisions of this §19.53 adopted to be effective February 21, 1992, 17 TexReg 1109; amended to be effective March 6, 1995, 20 TexReg 1261.

## **VI. Oil Spill Prevention & Response Act of 1991**

### **Sections 40.157-40.160**

#### 40.157. Liability of the Fund

(a) Persons who incur response costs or who are entitled to damages as a result of an unauthorized discharge of oil may receive compensation from the fund.

(b) Any person other than the state seeking compensation from the fund must file a claim with the commissioner. The claimant must provide the commissioner with satisfactory proof of the costs incurred or damages claimed. Each claimant shall make a sworn verification of the claim.

(c) The commissioner shall prescribe appropriate forms and requirements and by rule shall establish procedures for filing claims for compensation from the fund and for response cost reimbursements to other state agencies from the fund.

Added by Acts 1991, 72nd Leg., ch. 10, § 1, eff. March 28, 1991.

#### § 40.158. Exceptions to Liability

(a) Except as provided by Subsection (b) of this section, the fund is absolutely liable for:

(1) all proven, reasonable response costs approved by the commissioner under Section 40.103 of this code from an unauthorized discharge of oil;

(2) all natural resources damages from an unauthorized discharge of oil; and

(3) with the exception of those damages proportionately attributable to the negligence or willful misconduct of the claimant, all other proven damages from the fund from an unauthorized discharge of oil.

(b) A person liable for an unauthorized discharge of a hazardous substance may not file a claim or be reimbursed from the fund for the unauthorized discharge of a hazardous substance. A person responsible for an unauthorized discharge of oil may not file a claim or be reimbursed from the fund except:

(1) if the person responsible is entitled to a defense to liability under Section 40.204 of this code, a claim for response costs and damages may be filed; or

(2) if the person responsible is entitled to a limitation of liability under Section 40.202 of this code, a claim for response costs and damages to the extent that they exceed the applicable limitation may be filed.

(c) No claim may be approved or certified during the pendency of any action by the claimant in court to recover response costs or damages that are the subject of the claim.

Added by Acts 1991, 72nd Leg., ch. 10, § 1, eff. March 28, 1991.

#### § 40.159. Claims From Discharges of Oil

(a)(1) On determining that damage from an unauthorized discharge of oil is likely to occur or has occurred and will result in the filing of claims, the commissioner shall immediately designate the person or persons responsible who, if the designation is not challenged within five days of notice thereof, shall immediately and widely advertise the manner in which the person will accept claims.

(2) If the designation is challenged or the commissioner is otherwise unable to designate a responsible person, the commissioner shall immediately and widely advertise the manner in which the commissioner shall accept claims.

(b)(1) A claimant shall submit any claim exceeding \$50,000 to the designated responsible person. If there is no reasonable response from the designated responsible person within 90 days or in the absence of a designated responsible person as provided under Subsection (a)(2) of this section, the claimant shall submit the claim to the federal fund. If there is no reasonable response from the federal fund within 60 days, the claimant may submit the claim to the fund.

(2) A claimant shall submit any claim less than or equal to \$50,000 to the designated responsible person. If there is no reasonable response from the designated responsible person within 30 days or in the absence of a designated responsible person as provided under Subsection (a)(2) of this section, the claimant may submit the claim to the fund.

(c) Claims must be submitted to the fund by filing with the commissioner not later than 180 days after the periods prescribed in Subsection (b) of this section. Claims not filed within the time allowed are barred as against the fund.

Added by Acts 1991, 72nd Leg., ch. 10, § 1, eff. March 28, 1991.

#### § 40.160. Payment of Awards



(a) The commissioner shall establish the amount of the award. If the claimant accepts the award, the commissioner shall certify the amount of the award and the name of the claimant to the comptroller, who shall pay the award from the fund, subject to Section 40.162 of this code.

(b) If either the claimant or the person or persons determined by the commissioner to be responsible for the unauthorized discharge of oil disagrees with the amount of the award, such person may request a hearing. The commissioner shall hold a hearing and issue an order setting the amount of the award.

(c) Each person's claims arising from a single discharge must be stated in one application. Costs or damages omitted from any claim at the time a claimant accepts an award are waived. The commissioner may make partial final awards toward a single claim.

(d) If a person accepts an award from the fund, it shall bind both the claimant and the commissioner as to all issues covered by the award and may not be further attacked, collaterally or by separate action. The commissioner shall be subrogated to all rights or causes of action of the claimant arising from the unauthorized discharge and covered by the award. The claimant shall have no further cause of action against the person responsible for the discharge.

(e) Claims proceedings under this chapter are not contested cases under Chapter 2001, Government Code and judicial review of such proceedings is not available under that Act.

Added by Acts 1991, 72nd Leg., ch. 10, § 1, eff. March 28, 1991. Amended by Acts 1995, 74th Leg., ch. 76, § 5.95(49), eff. Sept. 1, 1995.