

# Vessel-caused Oil Pollution Compensation Fund Claims Settlement Guidelines

(Trial Version)

## **Introduction**

These Guidelines are formulated in accordance with relevant provisions such as the Marine Environment Protection Law of the People's Republic of China, the Regulations on Administration of the Prevention and Control of Environment Pollution Caused by Vessels, the Administrative Measures for the Collection and Use of Vessel-caused Oil Pollution Compensation Fund (hereinafter referred to as "Administrative Measures") and the Detailed Rules on Implementation of the Administrative Measures for the Collection and Use of Vessel-caused Oil Pollution Compensation Fund (hereinafter referred to as "Detailed Rules"), and with reference to international common practices as well as in combination with actual situations of China, for the purpose of guiding and regulating claims settlement work of Vessel-caused Oil Pollution Compensation Fund (hereinafter referred to as "Fund").

These Guidelines are main regulations for the China Vessel-caused Oil Pollution Damages Claims Settlement Center (hereinafter referred to as "Claims Settlement Center") to conduct work of claims settlement for the Fund, which are divided into five chapters. Chapter I is the general rules for claims settlement, setting forth the scope of application of these Guidelines, the principles for claims settlement as well as general procedures of claims settlement. Chapter II to Chapter V are sub-provisions for claims settlement, respectively setting forth specific provisions for claims settlement in respect of emergency response costs, costs incurred for controlling or eliminating the pollution, direct economic losses caused to fisheries and tourism sectors as well as costs of measures taken to reinstate the marine ecosystem and natural fishery resources, etc.

The standard in these Guidelines for verification on costs of various items for which compensation or recompense is lodged against the Fund shall adhere to the principle

of compensating or recompensing actual loss, having direct causation relationship with vessel-caused oil pollution accident, without considering compensation or recompense for indirect economic loss.

These Guidelines will be revised in due course in accordance with variation of laws and claims settlement practice, with interval in principle not exceeding two years.

These Guidelines are promulgated by the Maritime Safety Administration of the Ministry of Transport, and the Maritime Safety Administration of the Ministry of Transport shall be responsible for interpreting the same.

## Content

### **Introduction..... - 1 -**

### **Chapter I General Rules for Claims Settlement.....6**

I. Scope of application .....	6
II. Scenarios under which the Fund shall compensate or recompense .....	7
III. Claimed items .....	8
IV. Basic requirements for claims settlement.....	10
V. Claims settlement procedures .....	13
(I) Reception and registration of materials for claim application .....	13
(II) Acceptation of claim application.....	13
(III) Publication of Claims Settlement Registration Announcement.....	16
(IV) Investigation on claimed items .....	16
(V) Compiling of claim settlement report.....	19
(VI) Prior payment by the Fund.....	20
(VII) Issuance of compensation/recompense decision.....	21
(VIII) Objection to and review of claim settlement decision .....	22
(IX) Service of relevant claim settlement documents.....	23
(X) Enforcement of claim settlement decision .....	24
(XI) Recovery of payments made.....	24
(XII) Close file and archiving of case .....	25

### **Chapter II Sub-provisions for Claim Settlement of Costs for**

### **Emergency Response .....26**

I. Scope of application .....	26
II. Main content to be examined and verified .....	26
III. Checking and ratifying of costs for emergency response .....	28
(I) Charges for use of ships .....	28
(II) Charges for use of planes .....	35

(III) Charges for use of vehicles .....	36
(IV) Charges for use of professional equipments .....	38
(V) Charges for consumables.....	50
(VI) Charges for disposal of wastes.....	55
(VII) Charges for personnel .....	57
(VIII) Charges for surveillance and monitoring.....	61
(IX) Charges for protection of wildlife.....	63
(X) Charges for logistic support .....	65
(XI) Charges for other directly related items.....	65
<b>Chapter III Sub-provisions for Claim Settlement of Costs for Controlling or Eliminating Pollution.....</b>	<b>66</b>
I. Scope of application .....	66
II. Main content for examination and verification as well as check and ratification on costs.....	66
<b>Chapter IV Sub-provisions for Claim Settlement of Direct Economic Losses to Fishery and Tourism etc Sectors .....</b>	<b>67</b>
I. Scope of application .....	67
II. Settlement of claims for damages to properties such as facilities and equipments for living and production .....	67
(I) Method Main content for examination and verification.....	68
(II) Checking and ratifying of costs.....	69
III. Settlement of claims for actual value reduction of properties such as aquatic products.....	70
(I) Mains content for examination and verification.....	71
(II) Checking and ratifying of costs.....	75
VI. Settlement of claims for direct economic losses to other sectors .....	75

## **Chapter V Sub-provisions for Claim Settlement of Costs for Marine Ecosystem and Natural Fishery Resources Reinstatement Measures**

.....77

I. Scope of application .....	77
II. Claim settlement of costs for marine ecological environment reinstatement measures.....	77
(I) Main content for examination and verification .....	78
(II) Checking and ratifying of costs .....	79
III. Claim settlement of costs for natural fishery resources reinstatement measure	80
(I) Main content for examination and verification .....	80
(II) Checking and ratifying of costs .....	82

## **Appendixes of the Vessel-caused Oil Pollution Compensation Fund**

**Claims Settlement Guidelines.....84**

Appendix 1 .....	85
Appendix 2.....	86
Appendix 3.....	86
Appendix 4.....	87
Appendix 5.....	90

## **Chapter I General Rules for Claims Settlement**

### **I. Scope of application**

These Guidelines are applicable to specific claims settlement work in respect of compensation or recompense for oil pollution damages and relevant costs in relation to marine environment pollution within the sea areas under the jurisdiction of the People's Republic of China caused or likely to be caused by a vessel-caused oil pollution accident occurred within or beyond the sea areas under the jurisdiction of the People's Republic of China.

These Guidelines are applicable to compensation or recompense for oil pollution damages caused by vessel-caused oil pollution accidents which occurred after 0000hrs on July 1, 2012 Beijing time.

Geographical scope to which these Guidelines are applicable is the internal waters, territorial seas, contiguous zones, exclusive economic zones and continental shelves of the People's Republic of China and all other sea areas under the jurisdiction of the People's Republic of China. Amongst which, "internal waters" means all sea areas on the land-ward side of the baseline of the territorial seas of the People's Republic of China, and it shall include coastal ports waters.

The "vessel-caused oil pollution accident" to which these Guidelines

are applicable means one or a series of events in which the vessel leaks persistent or non-persistent oil cargo, fuel oil or their residuals and causes oil pollution damage, or the vessel constitutes serious and urgent oil pollution damage threat although it does not leak oil. If the series of events occur due to one same reason, such series of events shall be deemed as one same accident.

Vessel to which these Guidelines are applicable means a vessel of any type other than government's vessels engaging in non-commercial purposes, military vessels, fishing vessels, offshore oil platforms and floating storages.

## **II. Scenarios under which the Fund shall compensate or recompense**

The Fund shall be used to compensate or recompense vessel-caused oil pollution damages and relevant costs in any of the following situations:

- (1) upon decision by the court or arbitration institute, the total amount of vessel-caused oil pollution damages and relevant costs caused by a same accident exceeds the limitation of liability as provided for in the Regulations on Administration of the Prevention and Control of Marine Environment Pollution Caused by Vessels;
- (2) upon decision by the court or the arbitration institute, the shipowner is exempted from liability of compensation in accordance with the



---

Marine Environment Protection Law of the People's Republic of China, the International Convention on Civil Liability for Oil Pollution Damage, 1992 as well as the Regulations on Administration of the Prevention and Control of Marine Environment Pollution Caused by Vessels, which shall not fall within the scenarios of exemptions as provided for in the Administrative Measures.

- (3) upon decision by the court, the shipowner and its oil pollution liability insurer or financial guarantor (hereinafter collectively referred to as "shipowner and insurer of vessel") is unable, in financial capability, to fulfill its obligations in part or in whole, or, the solvency of the shipowner and insurer of vessel is insufficient in fulfilling its obligations in part or in whole;
- (4) the maritime administration agency directly under the China MSA or the ship pollution investigation and handling agency above the level of province confirms that the oil pollution damage is caused by vessel but the polluting vessel cannot be identified.

For determination of any of the above four scenarios, the claimant is required to submit document or proof document issued by the above relevant department.

### **III. Claimed items**

Claimed vessel-caused oil pollution damages and relevant costs to be accepted and paid by the Fund include:

- (1) Costs incurred for emergency response action: costs incurred for emergency response measures taken for implementing orders from the ship pollution investigation and handling agency for the purpose of mitigating or preventing vessel-caused oil pollution damages;
- (2) Costs incurred for measures for controlling or eliminate the pollution: costs incurred for reasonable measures taken to prevent, control and eliminate the pollution, for the purpose of mitigating or preventing vessel-caused oil pollution damages;
- (3) Direct economic losses to fishery and tourism sectors etc: direct economic losses, having direct causation relation with the vessel-caused oil pollution accident, sustained by fishery and tourism units and individuals, such as property damages or reduction of actual value;
- (4) Costs incurred for measures to reinstate the marine ecosystem and natural fishery resources: costs incurred for measures that have already been taken to reasonably reinstate the marine ecosystem and natural fishery resources, etc.;
- (5) Costs incurred for work of surveillance and monitoring vessel-caused oil pollution carried out by the China Vessel-caused Oil Pollution Compensation Fund Management Committee (hereinafter referred to as “Management Committee”) and its secretariat or by unit(s) or institute(s) under the entrustment of the Management Committee and its secretariat; and

(6) Other costs as approved by the State Council.

The amount compensated or recompensed by the Fund against any one vessel-caused oil pollution accident shall not exceed RMB30,000,000. Compensation for items under a same accident shall follow the above sequence, and where items under a same sequence could not be compensated or recompensed sufficiently from the Fund, such items shall be compensated or recompensed in proportion.

#### **IV. Basic requirements for claims settlement**

Claims settlement of the Fund shall observe the following basic requirements:

- (1) the claimant shall be a unit or individual who has sustained oil pollution damages, and shall satisfy the situations and principles of compensation or recompense as provided for in the Administrative Measures;
- (2) the claim shall fall within the scope of compensation or recompense by the Fund;
- (3) the oil pollution damage shall be resulted from vessel-caused oil pollution accident, and the claimed item(s) shall have direct causation relation with the vessel-caused oil pollution accident;
- (4) emergency response measure(s), measure(s) for controlling and eliminating pollution, measure(s) for reinstating the marine ecosystem

---

and natural fishery resources, etc. shall be appropriate, reasonable and effective, such measure(s) have already been taken, and the claimed costs and losses shall have been incurred already;

- (5) losses claimed and damages sustained shall be economic losses that may be quantified;
- (6) in the circumstance that the shipowner and insurer of vessel have been determined, after relevant shipowner and insurer of vessel have undertaken the liability of compensation in accordance with law, the Fund will recompense for the claimant in respect of the part that has not been compensated;
- (7) where the oil pollution source cannot be confirmed, the claimant shall submit proof document, issued by the maritime administration agency directly under the China MSA or the ship pollution investigation and handling agency above the level of province, which identifies that the oil pollution came from vessel(s);
- (8) Upon occurrence of a vessel-caused oil pollution accident, the aggrieved party of oil pollution damages is obliged to take necessary measure(s) to prevent or mitigate pollution damages, and the Fund will not compensate or recompense for the loss(s) caused as a result that the aggrieved party of oil pollution damages failed to perform the aforesaid obligation; ;
- (9) Where the oil pollution damages were caused in part or in whole due to fault of the aggrieved party of oil pollution damages, the Fund will not compensate or recompense for the same; ;

- 
- (10) Claims settlement by the Fund shall not be subject to any settlement agreement in respect of damage compensation concluded between the aggrieved party and shipowner and insurer of polluting vessel; effective judgments or orders and conciliation statements of courts, may serve as basis and reference to claims settlement by the Fund; effective arbitral awards and mediation statements by arbitration institutes in respect of vessel-caused oil pollution damages compensation, may serve as reference to claims settlement by the Fund; ;
- (11) Governmental relief, commercial insurance indemnity and other incomes obtained by the aggrieved party due to vessel-caused oil pollution accident shall be deducted from the amount compensated or recompensed by the Fund; .
- (12) Scope of compensation or recompense by the Fund shall not include indirect economic loss, cost for reasonable reinstatement of environment to be implemented, litigation cost and taxes, etc. that are brought about by oil pollution and the claimant can usually claim against the shipowner and insurer of vessel; ;
- (13) Where the claimant has submitted to court or arbitration institute in respect of vessel-caused oil pollution damage dispute and such submission has been accepted, the limitation of period for the claimant to apply with the Fund for compensation or recompense shall be deemed as being suspended from the day when such submission was accepted by court or arbitration institute, and the limitation of period

for the claimant to apply with the Fund for compensation or recompense shall continue from the day when judgment by the court or award by the arbitration institute becomes effective..

- (14) The claimant shall submit written claim application, proof documents or other evidential materials for the damages and losses sustained within the specified time bar period, the written claim application shall be filled in normatively, proof documents or other evidential materials so provided must be true and sufficient. .

## **V. Claims settlement procedures**

### **(I) Reception and registration of materials for claim application**

Upon receipt of claim application of the claimant, the China vessel-caused oil pollution damages claims settlement center (hereinafter referred to as “Claims Settlement Center”) shall, verify the statement of application and relevant proof documents or other evidential materials, and register the same.

### **(II) Acceptation of claim application**

When accepting claim application, the Claims Settlement Center shall conduct formality examination on the statement of application and relevant proof documents or other evidential materials submitted by the claimant, content to be examined shall include:

1. Whether or not the statement of application and relevant proof

- 
- documents or other evidential materials submitted by the claimant are normative and complete;
2. Whether or not the claimant submitted effective judgments or orders and conciliation statements of court, effective arbitral award or mediation statements by arbitration institute, or proof documents issued by the maritime administration agency directly under the China MSA or the ship pollution investigation and handling agency above the level of province;
  3. Whether or not the claim application submitted by the claimant conforms to the stipulated time period.
  4. Whether or not the claimant submitted effective their identification materials. Where the claimant entrusts agent to handle the claim application affairs, the letter of authorization issued by the claimant and the identification certification of such agent shall be examined.
  5. Whether or not the oil pollution damages and relevant costs that the claimant applied for compensation or recompense fall within the scope of compensation or recompense as provided for in the Administrative Measures;
  6. Whether or not the oil pollution damages and relevant costs that the claimant applied for compensation or recompense were direct economic losses caused by a vessel-caused oil pollution accident as provided for in the Detailed Rules;
  7. Whether or not the oil pollution damages and relevant costs that the

claimant applied for compensation or recompense have a specific amount and corresponding proof documents or evidential materials.

8. Where claim application meets provisions in Item (3) and (4) of Art.15 of the Administrative Measures, examine on whether or not the claimant signed the Subrogation Form/Letter of Authorization as attached in the Vessel-caused Oil Pollution Compensation Fund Claims Manual, transferring, to the extent it obtained the compensation or recompense from the Form, its right of claiming against the shipowner and insurer of vessel who did not fulfill statutory obligation to the Claims Settlement Center.

During formality examination on the claim application, the Claims Settlement Center may provide necessary help and guidance to the claimant in preparing evidential materials. The Claims Settlement Center shall finish the examination and verification within 15 working days after receipt of the application materials submitted by the claimant. Where it holds that such application materials meet the conditions of acceptance, it shall issue and serve the Notice of Acceptance of Vessel-caused Oil Pollution Compensation Fund for Claim Application (Appendix 1); where it holds that the claimant needs to supplement the application materials, it shall issue and serve the Notice of Supplementation of Vessel-caused Oil Pollution Compensation Fund for Claim Application (Appendix 2). The claimant shall supplement application materials within the stipulated time period, and the time when the claimant submits supplemental materials



shall be the time of submission of claim; where it holds that such application materials do not meet the conditions of acceptance, it shall issue and serve the Notice of Dismissal of Vessel-caused Oil Pollution Compensation Fund for Claim Application (Appendix 1) and explain the reason; Appendix

### **(III) Publication of Claims Settlement Registration Announcement**

The Claims Settlement Center shall, within 15 working days after accepting the first claim application in respect of one same vessel-caused oil pollution accident, publish Vessel-caused Oil Pollution Compensation Fund Claim Registration Announcement (Appendix 3) through website of the Fund, newspapers or other news media, urging all aggrieved parties of oil pollution to handle claim registration as soon as possible and submit application materials in written form.

As to claim applications for a same vessel-cause oil pollution accident, the Claims Settlement Center shall accept the same successively in accordance with the sequence of the time when the claimants submitted their claim applications.

### **(IV) Investigation on claimed items**

After accepting a claim application, the Claims Settlement Center may,

by its own or entrust vessel-caused oil pollution damages assessment experts or assessment institute to, carry out investigation, verification and assessment for the authenticity, compliance and reasonability of the claim application, confirm the oil pollution damage facts, and compile investigation report. The Claims Settlement Center may organize experts to examine and review the investigation report if necessary.

As to vessel-caused oil pollution accidents in which the Fund might be used, the Claims Settlement Center may, , intervene in advance to conduct investigation work although there has not been any claim application lodged by claimant.

1. Main methods for investigation

- (1) Examine and verify the authenticity, legality, reasonability and relevancy of the statement of application, relevant proof documents and other evidences;
- (2) Verify the situation with the claimants and relevant units or personnel by written message, phone call recordings, emails, faxes and on-site investigations. On-site investigation shall be participated by at least two claim settlement personnel, and shall make investigation record; such record shall be signed or sealed by the person(s) investigated, where they refuse to sign or seal, the claim settlement personnel shall make notes for the situation on such record accordingly;
- (3) Verify specific situation of oil pollution damages by making

---

inquiries to and collecting relevant materials from the vessel-caused pollution accident emergency commanding organization, government departments, courts, arbitration institutions, appraisal institutions and related shipowner and insurer of vessel;

- (4) Entrust specialized institute(s) to conduct monitoring, surveillance and technical appraisal, etc..

## 2. Compiling of investigation report

The Claims Settlement Center may compile investigation report respectively based on claimants and claim projects;

The investigation report shall contain the following main content:

- (1) Overview of the vessel-caused oil pollution accident, including basic information of the vessel, time and place of the accident, situation of pollution damages, situation of emergency response and the satiation of certificate of civil liability insurance for ship oil pollution as well as limitation of liability, etc;
- (2) Overview of the claim projects, including the basic situation and claim requests of the claimant, and the situation of trials, arbitrations or investigation and handling by courts, arbitration institutes or the ship pollution investigation and handling agency;
- (3) The investigation, verification and assessment process and conclusion for the claimed items, including the qualification of the claimant, the causation relation between the claimed items and the vessel-caused oil pollution accident, the authenticity of the damage facts, the

- reasonability of the measures adopted and the claimed amount, etc;
- (4) Conclusions and suggestions, including determinations for the damage facts and relevant suggestions

#### **(V) Compiling of claim settlement report**

The Claims Settlement Center shall, based on the investigation report, as well as relevant proof documents or other evidences of the claimant, compile Vessel-caused Oil Pollution Compensation Fund Claim Settlement Report (hereinafter referred to as “Claim Settlement Report”), and draw up the plan of compensation or recompense by the Fund.

Compiling of Claim Settlement Report shall, in principal, be finished within 6 months commencing from the expiration day of the term of announcement of the claim registration. Where extension is necessary, such time period may be extended for 3 months after approval by the head of the Claims Settlement Center; further extension, if needed under special circumstance, shall be reported to the general secretary or standing deputy general secretary of the secretariat of the Management Committee for approval.

A Claim Settlement Report shall contain the following main content:

1. Description of the vessel-caused oil pollution accident;
2. Situation of the claimant, claimed items and claimed amount;

3. Limitation of liability of the shipowner and insurer of vessel and the situation of compensation that the claimant has obtained;
4. Situation of the application materials received, the claim applications accepted and the claims registration announcement made by the Claims Settlement Center;
5. Situation of investigation for the claimed items;
6. Situation of actual losses and amount that, recognized by the Claims Settlement Center, may obtain compensation or recompense from the Fund, including the process of accounting the amount of actual pollution damage and conclusions thereon;
7. Situation of plans drawn up for compensation or recompense from the Fund;
8. Conclusions and suggestions, including the plan of compensation or recompense from the Fund and suggestions to the management work of the Fund.

#### **(VI) Prior payment by the Fund**

In the circumstance in which it is unclear whether or not all aggrieved parties of oil pollution of a same vessel-caused oil pollution accident have applied with the Fund for compensation or recompense, the Claims Settlement Center may, after finishing investigation on those aggrieved parties of oil pollution who have lodged claims against the Fund, compile the Claim Settlement Report, upon deliberation at the meeting of the

Management Committee, the Fund may, in advance, make a certain proportion of payment to such aggrieved parties of oil pollution.

When drawing the compensation or recompense plan of the Fund, the Claims Settlement Center shall give full consideration to factors such as the limit and sequence of compensation from the Fund, the situation of losses of the vessel-caused oil pollution accident, as well as the possibility that there might be aggrieved parties of oil pollution who did not handle claims registration within the term of announcement, propose suggestion for the proportion of prior payment or postponed payment to various claimants of a same vessel-caused oil pollution accident and give explanations thereon, submit such plan to the secretariat of the Fund for review, and report the same the same to the meeting of the Management Committee for confirmation for deliberation.

The Fund will complete full payment for limit of amount of compensation or recompense to any vessel-caused oil pollution accident after expiration of limitation of period for claims.

**(VII) Issuance of compensation/recompense decision**

The Claims Settlement Center shall, within 15 working days from the day when the meeting of the management committee passed the claim settlement decision, issue Vessel-caused Oil Pollution Compensation Fund Notice of Claim Settlement Decision (Appendix 4) to claimant.

In the case compensation or recompense plan is not passed after deliberation at the meeting of Management Committee, if the Management Committee holds necessary for re-investigation, the Claims Settlement Center shall carry out investigation again in accordance with requirements of the Management Committee, draw up compensation or recompense plan, and submit the same to be deliberated at the next meeting of the Management Committee.

**(VIII) Objection to and review of claim settlement decision**

Where the claimant has objection to the claim settlement decision, it may, within 10 working days after receipt of the Vessel-caused Oil Pollution Compensation Fund Notice of Claim Settlement Decision, apply in written form to the Claims Settlement Center for review and submit relevant supplementary evidential materials; the Claims Settlement Center will not accept application of review submitted after expiry of such 10 working days. For any claim settlement case, the claimant may apply for review for only once.

Upon receipt of the review application, the Claims Settlement Center shall carry out investigation again, and draw up compensation or recompense plan.

---

**(IX) Service of relevant claim settlement documents**

When serving the above relevant documents to the claimant or its agent, the Claims Settlement Center shall serve the same directly upon the claimant or its agent, and the date noted on Service Receipt of the Vessel-caused Oil Pollution Compensation Fund (Appendix 5) by claimant or its agent shall be regarded as the date of service; if direct service proves to be difficult, the service may be done by mail or, upon consent by the claimant or its agent, the Settlement Center may adopt electronic means such as fax or email to serve the same whereby service of the same can be confirmed by the claimant or its agent.

In case of service by mail, the claim settlement documents, attached with service receipt, shall be handed over to post office to deliver the same to the claimant or its agent through registered mail, the date stated on the receipt for postal delivery of registered mail shall be deemed as the date of service. Where the date stated on the receipt for postal delivery of registered mail is inconsistent with the date stated on the service receipt, or where the service receipt is not sent back, the date stated on the receipt for postal delivery of registered mail shall be the date of service.

In case of service by means such as fax or email, the date when the mail entered into the certain system of the claimant or its agent shall be the date of service.



---

**(X) Enforcement of claim settlement decision**

The Claim Settlement Center shall enforce the claim settlement decision rendered at the meeting of the Management Committee. Where it is necessary to make payment to the claimant, such payment shall be made in accordance with relevant management rules of financial funds, and the claimant shall be required to provide receipt voucher.

Where the claimant raises objection to the claim settlement decision and applies for review, the Claims Settlement Center shall postpone/suspend the payment of compensation or recompense

**(XI) Recovery of payments made**

1. As to claim application in the circumstance in which it is temporarily unable to identify the party liable for oil pollution damage, upon deliberation at the meeting of the Management Committee, the Claim Settlement Center may make compensation or recompense payment in advance to the claimant. The Claim Settlement Center shall follow up to the post-situation of vessel-caused oil pollution accident. Upon identifying the party liable for oil pollution damage, the Claim Settlement Center may subrogate the claimant to claim against the shipowner and insurer of polluting vessel up to the amount it has made compensation payment in advance to the claimant.

2. Where the court determines in effective legal document that, the

shipowner and insurer of vessel is unable, in financial capability, to fulfill its obligations in part or in whole, or, the solvency of the shipowner and insurer of vessel is insufficient in fulfilling its obligations in part or in whole, if the claimant lodges claim application against the Fund, upon deliberation at the meeting of the Management Committee, the Claim Settlement Center may make compensation payment in advance to the claimant. The Claims Settlement Center, upon knowing that the shipowner and insurer of vessel has property available for enforcement, may subrogate the claimant to claim against the shipowner and insurer of vessel up to the amount it has made compensation payment in advance to the claimant.

3. The Settlement Center may deduct a corresponding sum or demand refunding a corresponding sum of compensation or recompense if it is not able to exercise the right to demand compensation or recompense by subrogation due to the deliberation or major fault of the claimant.

The Claim Settlement Center shall turn over the compensation payments, so recovered, to the State Treasury in accordance with relevant provisions.

## **(XII) Close file and archiving of case**

Upon completion of settlement of all claim applications for a same vessel-caused oil pollution accident, the Claim Settlement Center shall close the case, sort out and archive the materials of the case for long-term preservation.

## **Chapter II Sub-provisions for Claim Settlement of Costs for Emergency Response**

### **I. Scope of application**

These sub-provisions are applicable to claims settlement of costs for emergency response.

Costs for emergency response are costs incurred for emergency response measure(s), taken under order(s) of vessel-caused pollution accident emergency commanding organization during the period of emergency response action(s), to mitigate or prevent vessel-caused oil pollution damages.

Period of emergency response is a period from the time when the vessel-caused pollution accident emergency commanding organization activates emergency response action under emergency response plan till the end of emergency response action(s).

### **II. Main content to be examined and verified**

(I) Examine and verify evidential materials proving that the claimant

---

participated in emergency response action as per orders from the vessel-caused pollution accident emergency commanding organization, such as written notice, email, fax and telephone call records sent by the vessel-caused pollution accident emergency commanding organization. Where no such written notice was then sent due to tight time, the claimant shall timely request the vessel-caused pollution accident emergency commanding organization to issue specific written notice.

- (II) Examine and verify on whether or not the time the claimant participated in emergency response action is consistent with the time ordered by the vessel-caused pollution accident emergency commanding organization, and whether or not such time the claimant participated in emergency response action falls within the range from the commencement till the end of emergency response action as declared or recognized by the vessel-caused pollution accident emergency commanding organization.
- (III) Examine and verify on whether or not the place where the claimant participated in emergency response action is consistent with the place ordered by the vessel-caused pollution accident emergency commanding organization.
- (IV) Examine and verify on whether or not the emergency response measure(s) taken by the claimant are for the purpose of preventing or mitigating oil pollution damages.
- (V) When the claimant carries out salvage at sea or emergency response,

if the primary purpose upon commencement of the operation is to prevent or mitigate oil pollution damages, the costs incurred thereunder shall be recognized as costs for emergency response. If the operation has dual-purpose of saving ships and other properties in distress as well as preventing and mitigating oil pollution damages, the costs incurred thereunder shall be divided reasonably in accordance with the proportion between the primary purpose and the secondary purpose; where there is no reasonable basis to divide the primary and secondary purpose, the costs incurred thereunder shall be shared equally. Costs incurred for operation that is irrelevant to prevention and mitigation of oil pollution damages shall not be classified as costs for emergency response.

### **III. Checking and ratifying of costs for emergency response**

Costs for emergency response mainly include charges for use of ships, planes, vehicles and professional equipments, charges for consumables, charges for disposing of wastes, charges for personnel, charges for surveillance and monitoring, charges for protection of wildlife, charges for logistic support and charges for other directly related items, etc.

#### **(I) Charges for use of ships**

Charges for use of ships are costs incurred for use of oil spill handling ships, auxiliary ships and other ships in emergency response action.

An oil spill emergency handling ship is a professional ship having the functions of encircling, reclaiming, eliminating, temporarily storing of spilled oil, spraying oil disperse agents, emergency assistance of loading as well as disposing of oily water, etc.

### 1. Calculation of costs

(1) Charges for use of ships are consist of charges for operation, standby charges, charges for consumed fuel oil and lubricating oil as well as cleaning charges incurred actually.

(2) Calculation formula of charges for use of ships is:

$$V = \sum_{i=1}^n (R_i \times T_i \times C_i + R'_i \times T'_i \times C'_i + F_i)$$

Amongst which,

$V$  —charges for use of ships;

$R_i$  —rate of charges for operation by the  $i^{\text{th}}$  ship;

$T_i$  —the duration of operation by the  $i^{\text{th}}$  ship;

$C_i$  —reasonability coefficient of charges for operation by the  $i^{\text{th}}$  ship;

$R'_i$  —rate of standby charges of the  $i^{\text{th}}$  ship;

$T'_i$  —standby duration of the  $i^{\text{th}}$  ship;

$C'_i$  —reasonability coefficient of standby charges of the  $i^{\text{th}}$  ship.

$F_i$  —charges for fuel oil and lubricating oil consumed by the  $i^{\text{th}}$  ship as well as cleaning charges incurred actually;

- (3) Chargeable duration of ship is from the moment when the ship receives the order of emergency response action or makes engine standby till the moment when the ship returns to her original berthing base after the action. Where there is another separate mission under which it is unnecessary for the ship to return to the original berthing base, till the end of the original mission.

Duration of operation by the ship refers to the period during which the ship, based on order from the emergency commanding organization, departs from her berthing base, sails to the pollution accident scene, carries out emergency response at the pollution accident scene, carries out monitoring or surveillance, and sails back to the berthing base after the end of emergency response;

standby duration of the ship refers to the period during which the ship, based on order from the emergency commanding organization, waits for further order at the berthing base or leaves the accident scene to take shelter from winds, undergo maintenances (excluding duration of daily service and maintenances to the ship) and supplement materials and supplies.

Chargeable duration of ship shall be counted as per day (24 hours a day) pro rata, where accumulated duration of operation or standby

duration of a ship is less than 12 hours, they may be counted as half a day.

- (4) Rate of charges for operation of ship shall be checked and ratified by ranges in accordance with total power of the main engine of the ship with reference to the following table, and the rate of standby charges is 50% of rate of charges for operation.

**Table: Rate of charges for operation of ship**

For the part below 500HP	RMB28.8 per HP per day
For the part between 501HP and 5000HP	RMB19.4per HP per day
For the part between 5001HP and 12000HP	RMB13.9per HP per day
For the part between 12001HP and 20000HP	RMB9.7 per HP per day
For the part above 20001HP	RMB4.9per HP per day
Remark: as to ships with power less than 100HP, the rate shall be counted based on 100HP.	

- (5) Rate of charges for oil spill emergency handling ship may be added by a certain proportion on the basis of the above figures based on factors such as the actual environment, content and effect of operation, etc, provided that such added proportion shall not exceeding 25%. For any adjustment to proportion of rate of charges for oil spill emergency handling ship, the Claims Settlement Center shall explain in detail the reasons and basis in the Claims Settlement Report for such adjustment.



- (6) The quantity of fuel oil and lubricating oil actually consumed by the ship in emergency response operation shall be checked and ratified based on oil consumption proof materials provided by the claimant and in combination with the oil consumption power and rate of the main engine and auxiliary engine(s) of the ship as well as oil consumption coefficient of main engine. Unit price of the fuel oil and lubricating oil shall be checked and ratified in accordance with the market price at the time of emergency response action.
- (7) Cleaning charges incurred to ships during emergency response action due to sustaining of oil pollution shall be determined reasonably based on actual situation and evidential materials. If the claimant entrusted third party for such cleaning, it shall provide proofs for relevant charges.
- (8) Charges for ship have already contained wages and remunerations of manned crews, hence such wages and remunerations shall not be counted repeatedly when checking and ratifying charges for personnel.
- (9) Value range of reasonability coefficient of charges for ship shall be checked and ratified comprehensively based on the content and effect of work done by the ship, including adaptability to the sea state, the method of response, the effect of response, the quantity of oil reclaimed and other relevant factors

The Claims Settlement Center shall check and ratify strictly and

---

prudently the reasonability coefficient of charges for ship. If the value of such reasonability coefficient is not 1, the Claims Settlement Center shall give detailed description in the Claims Settlement Report for the reasons and basis of such adjustment.

- (10) Where it is necessary to use ship having special function during emergency response action, if the charge for use of such ship checked and ratified in accordance with calculation standard of these Guidelines is apparently lower than the market hiring price or its operation costs, the charge for use of such ship may be determined reasonably based on the market hiring price during the period of accident and in combination with the function of such ship as well as the actual effect it rendered during emergency response action.

## 2. Proof materials

The claimant shall provide corresponding evidential materials to prove the ownership and type of the ship, total power of her main engine, her tonnage, the time, place, content and effect of operation done by the ship, the time and place of standby of the ship, and consumption of oils, the time range that vessel-caused pollution accident emergency commanding organization instructed the ship to conduct emergency response, the time, place for operation of cleaning ships, as well as costs for third parties, etc, specifically as follows:

### (1) Certificates of the ship

The claimant shall provide certificates such as the ship's certificate of

ownership and certificate of inspection as well as MMSI certificate, etc..

(2) Logbook, engine logbook, oil record book

The claimant shall provide the logbook and engine logbook for the period of emergency response. The logbook and the engine logbook shall record the sailing time, the time, place and situation of operation, the time when the ship receives the order from the vessel-caused pollution accident emergency commanding organization, the time when the engine is standby, the time when the anchors are heaved up, the time when the ship arrives at the scene, the content, process and duration of operation, the time when the ship receives the orders for commencement and end of standby, the time when the ship receives the order declaring the end of mission, the time when the ship returns to berth base, the time when the engine of the ship is stopped, as well as the situation of fuel oil and lubricating oil consumed by the ship during the period of emergency response, whether or not there was cleaning action after termination of emergency response, etc.

In addition, the logbook shall record operating personnel onboard, equipments, materials and supplies provided onboard, as well as the situation of consumption and supplementation thereon.

(3) Materials proving work effect

The claimant shall provide work report, text, image and video materials, to prove the content, time and effect of emergency response work done by

the ship, or instead, the claimant may provide materials such as assessment report issued by professional institute for the content and effect of work done by the ship.

## **(II) Charges for use of planes**

Charges for use of planes are costs incurred for use of planes in the process of emergency response.

### 1. Calculation of costs

(1) Calculation formula of charges for use of planes is:

$$E = \sum_{i=1}^n (R_i \times T_i)$$

Amongst which,

$E$ —charges for use of planes;

$R_i$ —rate of charge for use of the  $i^{\text{th}}$  plane;

$T_i$ —duration of use of the  $i^{\text{th}}$  plane.

(2) The rate of charge for use of plane shall be checked and ratified in accordance with the price in the contract concluded or in accordance with the market price at the time of accident, and such charge shall have contained charge for aviators and fuel oil cost.

(3) Chargeable duration of plane is from the moment when the plane leaves the parking bay upon receiving corresponding order till the moment when the plane flies back to the parking bay, i.e. from wheel

chocking to wheel chocking.

(4) Chargeable duration of plane shall be counted by hours, and less than an hour will be counted as one hour.

(5) The type of plane, the quantity of planes used and the duration of plane used shall be determined in accordance with proof materials provided by the claimant and the verification result.

## 2. Proof materials

The claimant shall provide contract of hire of the plane, bills for expenses, flight logbook, work report as well as text, image and video materials, to prove the type of the plane, the flight time, flight zone, flight mission and effect of operation, etc., or instead, the claimant may provide materials such as assessment report issued by professional institute for the content and effect of work done by the plane.

## 3. Examination and verification on rationality

The Claims Settlement Center shall examine and verify the rationality of the charges for use of planes based on the content and effect of work done by planes, including the adaptability to the weather, the scope of monitoring and surveillance as well as other relevant factors.

### **(III) Charges for use of vehicles**

Charges for use of vehicles are costs incurred for use of vehicles due to

transport of emergency response personnel, material, equipments, devices and wastes in the process of emergency response.

## 1. Calculation of charges

(1) Calculation formula of charges for use of vehicles is:

$$G = \sum_{i=1}^n (R_i \times T_i)$$

Amongst which,

$G$ ——charges for use of vehicles;

$R_i$ ——rate of charges for use of the  $i^{\text{th}}$  vehicle;

$T_i$ ——duration for use of the  $i^{\text{th}}$  vehicle;

(2) Rate of charges for use of vehicles shall be checked and ratified based on market price for the same type of vehicle at the time of accident.

The rate of charges for use of vehicles includes charge for driver and fuel oil cost.

(3) Chargeable duration of vehicle is from the moment when the vehicle leaves the parking lot upon receiving corresponding order till the moment when the vehicle comes back to the parking lot,

(4) Duration for use of vehicle shall be counted by hour, less than an hour will be counted as one hour.

(5) The type, quantity and duration of vehicle used shall be determined in accordance with proof materials provided by the claimant as well as the verification result of the same.

## 2. Proof materials

The claimant shall provide the vehicle's license, transport certificate, vehicle dispatch note, vehicle rental contract, invoice, transport records and relevant text, image and video materials, to prove the name, type, time of use, place of use and operation content of the vehicle, or instead, the claimant may provide documents such as assessment report issued by professional institute for the content and effect of work done.

#### **(IV) Charges for use of professional equipments**

Charges for use of equipments are costs incurred for use of oil booms, skimmers, sprayers, washers and other relevant professional equipments in the process of emergency response as well as necessary repair costs incurred for repair the above equipments in case they are broken down during use.

##### **1. Charges for booms**

- (1) Charges for booms are costs incurred for use of various booms in the process of emergency response, for the purpose of enclosing, controlling, protecting and guiding currents..
- (2) Charges for booms consist of costs for operation, standby costs and other reasonable costs such as cost of cleaning and cost of repair.
- (3) Calculation formula of charges for booms is:

$$B = \sum_{i=1}^n (R_i \times L_i \times T_i \times C_i + R'_i \times L'_i \times T'_i \times C'_i + F_i)$$

Amongst which,

$B$ ——charges for booms;

$R_i$ ——rate of charges for operation by the  $i^{\text{th}}$  kind of boom;

$L_i$ ——length of the  $i^{\text{th}}$  kind of boom used;

$T_i$ ——duration of operation by the  $i^{\text{th}}$  kind of boom;

$C_i$ ——reasonability coefficient of charges for operation by the  $i^{\text{th}}$  kind of boom;

$R'_i$ ——rate of standby charges for the  $i^{\text{th}}$  kind of boom;

$L'_i$ ——length of the  $i^{\text{th}}$  kind of boom that remains standby;

$T'_i$ ——standby duration of the  $i^{\text{th}}$  kind of boom;

$C'_i$ ——reasonability coefficient of standby charges of the  $i^{\text{th}}$  kind of boom.

$F_i$ ——other reasonable costs for the  $i^{\text{th}}$  kind of oil boom, such as cost of cleaning and cost of repair;

(4) Chargeable duration of boom is from the moment when the boom is transported out of the storage base till the moment when it is transported back to the original storage base.

Duration of operation by the boom refers to the period from the time of starting to deploy the boom into the water till the time when retrieving of the same of finished. Standby duration of the boom refers to other period included in the chargeable duration except the duration of operation.

Chargeable duration of boom shall be counted by calendar day(24 hours from 0000hrs of the prevailing day to 0000hrs of the next day),



---

less than a day will be counted as one day. Duration of operation and standby duration shall not be calculated repeatedly.

- (5) Rate of charges for operation by boom shall be checked and ratified in accordance with such factors as the type and length of boom, and generally the daily rate shall not exceed 4% of purchase price of such boom; where it is impossible to verify the purchase price of the same, reference may be made to the market price of the same type of boom at the time of accident. Rate of standby charges for boom shall be 50% of its rate of charge for operation.
- (6) The type of boom, the quantity of booms used and the duration of operation, the standby duration, the purchase price of the same shall be determined in accordance with proof materials provided by the claimant and the verification result of the Claims Settlement Center.
- (7) Other reasonable costs for oil boom, such as cost for cleaning polluted oil booms and cost for repair oil boom broken down during operation, shall be determined in accordance with proof materials provided by the claimant and the verification result of the Settlement Center.
- (8) Value range of reasonability coefficient of charges of booms shall be checked and ratified comprehensively in accordance with the content of work done by oil boom, including the adaptability of the type of boom to the sea state and the place of operation, the reasonability of length of booms deployed, the reasonability of method of enclosing,

the extent of difficulty of deployment, speed of deployment, effect of anchoring, effect of enclosing and other relevant factors. .

The Claims Settlement Center shall check and ratify strictly and prudently the reasonability coefficient of charges for booms. If the value of such reasonability coefficient is not 1, the Claims Settlement Center shall give detailed description in the Claims Settlement Report for the reasons and basis of such adjustment.

## 2. Charges for skimmers

- (1) Charges for skimmers are costs incurred for use of various skimmers in the process of emergency response, for the purpose of reclaiming oil spilled out.
- (2) Charges for skimmers consist of costs for operation, standby costs and other reasonable costs such as cost of cleaning and cost of repair.
- (3) Calculation formula of charges for skimmers is:

$$S = \sum_{i=1}^n (R_i \times T_i \times C_i + R'_i \times T'_i \times C'_i + F_i)$$

Amongst which,

$S$ —charges for skimmers;

$R_i$ —rate of charges for operation by the  $i^{\text{th}}$  set of skimmer;

$T_i$ —duration of operation by the  $i^{\text{th}}$  set of skimmer;

$C_i$ —reasonability coefficient of charges for operation by the  $i^{\text{th}}$  set of skimmer;

- 
- $R'_i$ ——rate of standby charges for the  $i^{\text{th}}$  set of skimmer;
- $T'_i$ ——standby duration of the  $i^{\text{th}}$  set of skimmer;
- $C'_i$ ——reasonability coefficient of standby charges of the  $i^{\text{th}}$  set of skimmer;
- $F_i$ ——other reasonable costs for the  $i^{\text{th}}$  set of skimmer, such as cost of cleaning and cost of repair.

- (4) Chargeable duration of skimmer is from the moment when the skimmer is transported out of the storage base till the moment when it is transported back to the original storage base.

Duration of operation by the skimmer refers to the period from the time of starting to drag and drop skimmers at the oil pollution accident scene till the end of operation; standby duration of the skimmer refers to other period included in the chargeable duration except the duration of operation.

Chargeable duration of skimmer shall be counted by calendar day (24 hours from 0000hrs of the prevailing day to 0000hrs of the next day), less than a day will be counted as one day. Duration of operation and standby duration shall not be calculated repeatedly.

- (5) Rate of charges for operation by skimmer shall be checked and ratified in accordance with such factors as the type and reclaiming speed of skimmer, and generally the daily rate shall not exceed 2% of purchase price of such skimmer; where it is impossible to verify the

---

purchase price of the same, reference may be made to the market price of the same type of skimmer at the time of accident. Rate of standby charges for skimmer shall be 50% of its rate of charge for operation.

- (6) The type of skimmer, the quantity of skimmers used and the duration of operation, the standby duration, the purchase price of the same shall be determined in accordance with proof materials provided by the claimant and the verification result of the Claims Settlement Center.
- (7) Other reasonable costs for skimmer, such as cost for cleaning polluted skimmer and cost for repair skimmer broken down during operation, shall be determined in accordance with proof materials provided by the claimant and the verification result of the Settlement Center.
- (8) Value range of reasonability coefficient of charges for skimmers shall be checked and ratified comprehensively in accordance with the content of work done by the skimmer, including adaptability of the type of skimmer to the sea state, the category of oil spilled out and the place of operation, the adaptability of the reclaim capacity of skimmer to the oil spilled out, the reclaiming efficiency, the extent of match between the skimmer and other pollution cleanup equipments or devices and other relevant factors.

The Claims Settlement Center shall check and ratify strictly and prudently the reasonability coefficient of charges for skimmer. If the

value of such reasonability coefficient is not 1, the Claims Settlement Center shall give detailed description in the Claims Settlement Report for the reasons and basis of such adjustment.

### 3. Charges for sprayers

- (1) Charges for sprayers are costs incurred for use of various types of sprayers, such as airborne, marine-type or handheld sprayers, in the process of emergency response, to spray oil spill dispersants.
- (2) Charges for sprayers consist of costs for operation, standby costs and other reasonable costs such as cost of cleaning and cost of repair.
- (3) Calculation formula of charges for sprayers is:

$$P = \sum_{i=1}^n (R_i \times T_i \times C_i + R'_i \times T'_i \times C'_i + F_i)$$

Amongst which,

$P$  — charges for sprayers;

$R_i$  — rate of charges for operation by the  $i^{\text{th}}$  set of sprayer;

$T_i$  — duration of operation by the  $i^{\text{th}}$  set of sprayer;

$C_i$  — reasonability coefficient of charges for operation by the  $i^{\text{th}}$  set of sprayer;

$R'_i$  — rate of standby charges for the  $i^{\text{th}}$  set of sprayer;

$T'_i$  — standby duration of the  $i^{\text{th}}$  set of sprayer;

$C'_i$  — reasonability coefficient of standby charges of the  $i^{\text{th}}$  set of sprayer;

$F_i$  — other reasonable costs for the  $i^{\text{th}}$  set of sprayer, such as cost

---

of cleaning and cost of repair.

- (4) Chargeable duration of sprayer is from the moment when the sprayer is transported out of the storage base till the moment when it is transported back to the original storage base.

Duration of operation by the sprayer refers to the period during which the sprayer sprays oil dispersants at the oil spill accident scene; standby duration of the sprayer refers to other period included in the chargeable duration except the duration of operation.

Chargeable duration of sprayer shall be counted by calendar day (24 hours from 0000hrs of the prevailing day to 0000hrs of the next day), less than a day will be counted as one day. Duration of operation and standby duration shall not be calculated repeatedly.

- (5) Rate of charges for operation by sprayer shall be checked and ratified in accordance with such factors as the type and spraying speed of sprayer, and generally the daily rate shall not exceed 2% of purchase price of such sprayer; where it is impossible to verify the purchase price of the same, reference may be made to the market price of the same type of sprayer at the time of accident. Rate of standby charges for sprayer shall be 50% of its rate of charge for operation.

- (6) The type and quantity of sprayers, the duration used and the purchase price of the same shall be determined in accordance with proof materials provided by the claimant and the verification result of the

Claims Settlement Center.

- (7) Other reasonable costs for sprayer, such as cost for cleaning polluted sprayer and cost for repair sprayer broken down during operation, shall be determined in accordance with proof materials provided by the claimant and the verification result of the Settlement Center.
- (8) Value range of reasonability coefficient of charges for sprayers shall be checked and ratified in accordance with spraying effect. The Claims Settlement Center shall check and ratify strictly and prudently the reasonability coefficient of charges for sprayers. If the value of such reasonability coefficient is not 1, the Claims Settlement Center shall give detailed description in the Claims Settlement Report for the reasons and basis of such adjustment.

#### **4. Charges for washers**

- (1) Charges for washers are costs incurred for use of washers in the process of emergency response, for the purpose of cleaning oil pollution on those polluted beaches, rocks, vessels and facilities.
- (2) Charges for washers consist of costs for operation, standby costs and other reasonable costs such as cost of cleaning and cost of repair.
- (3) Calculation formula of charges for washers is:

$$W = \sum_{i=1}^n (R_i \times T_i \times C_i + R'_i \times T'_i \times C'_i + F_i)$$

Amongst which,

$W$  ———charges for washers;

$R_i$ ——rate of charges for operation by the  $i^{\text{th}}$  set of washer;

$T_i$ ——duration of operation by the  $i^{\text{th}}$  set of washer;

$C_i$ ——reasonability coefficient of charges for operation by the  $i^{\text{th}}$  set of washer;

$R'_i$ ——rate of standby charges for the  $i^{\text{th}}$  set of washer;

$T'_i$ ——standby duration of the  $i^{\text{th}}$  set of washer;

$C'_i$ ——reasonability coefficient of standby charges of the  $i^{\text{th}}$  set of washer

$F_i$ ——other reasonable costs for the  $i^{\text{th}}$  set of washer, such as cost of cleaning and cost of repair.

(4) Chargeable duration of washer is from the moment when the washer is transported out of the storage base till the moment when it is transported back to the original storage base.

Duration of operation by the washer refers to the period during which the washer cleans oil pollution at the oil spill accident scene; standby duration of the washer refers to other period included in the chargeable duration except the duration of operation.

Chargeable duration of washer shall be counted by calendar day (24 hours from 0000hrs of the prevailing day to 0000hrs of the next day), less than a day will be counted as one day. Duration of operation and standby duration shall not be calculated repeatedly.

(5) Rate of charges for operation by washer shall be checked and ratified



in accordance with such factors as the type (for example, hot water washer, cold water washer) and cleaning speed of washer, and generally the daily rate shall not exceed 2% of purchase price of such washer; where it is impossible to verify the purchase price of the same, reference may be made to the market price of the same type of sprayer at the time of accident. Rate of standby charges for washer shall be 50% of its rate of charge for operation.

- (6) The type and quantity of washers, the duration used and the average purchase price of the same shall be determined in accordance with proof materials provided by the claimant and the verification result of the Claims Settlement Center.
- (7) Other reasonable costs for washers, such as cost for cleaning polluted washers and cost for repair washers broken down during operation, shall be determined in accordance with proof materials provided by the claimant and the verification result of the Settlement Center.
- (8) Value range of reasonability coefficient of charges for washers shall be checked and ratified in accordance with the cleaning effect. The Claims Settlement Center shall check and ratify strictly and prudently the reasonability coefficient of charges for washers. If the value of such reasonability coefficient is not 1, the Claims Settlement Center shall give detailed description in the Claims Settlement Report for the reasons and facts of such adjustment.

## **5. Charges for other professional equipments**

- (1) Charges for other professional equipments are costs incurred for use of emergency discharge equipments, temporary storage equipments, lighting equipments and underwater oil pumping equipments as well as other new professional equipments in the process of emergency response.
- (2) Costs for emergency discharge equipments, temporary storage equipments and lighting equipments shall be checked and ratified with reference to method of check and ratification of charges for skimmers or shall be checked and ratified based on the operation cost of the claimant.
- (3) Charges for underwater oil pumping equipment shall be checked and ratified in accordance with market price or the operation costs of the claimant.
- (4) Charges for new types of professional equipments such as oil-water separators, foaming machine and UAV (unmanned aerial vehicle), etc shall be checked and ratified in accordance with the operating costs of the claimant.
- (5) The Claims Settlement Center will examine and verify the rationality of the incurred costs based content of work done by the above professional equipments and the actual use effect of them as well as other relevant factors.

## **6. Proof materials**

The claimant shall provide corresponding evidential materials to prove

---

the ownership, type and quantity of such equipments, content of operation, time of operation, standby time as well as work effect, etc, including:

- (1) ledgers of the equipments, including the inventory records book, the stock-in registration book, the stock-out registration book, service and maintenance records book as well as the purchase invoices, etc of such equipments, to prove corresponding situation of purchase, use, maintenance, wear and tear of the same.
- (2) Service record of the equipment, including the time when the equipment was allocated out of the warehouse, the time and method of transporting the equipment to the accident scene, the time when it was put into use, the situation and effect of use of such equipment, etc, to determine the duration of operation as well as the standby duration of such equipment. In addition, service record of the equipment may corroborate with evidential materials such the ship's logbook, engine logbook and working record of operating personnel.
- (3) The claimant shall provide work report, text, image and video materials, to prove the situation and effect of use of such equipment, or instead, the claimant may provide documents such as assessment report issued by professional institute for the content and effect of work done.

#### **(V) Charges for consumables**

Charges for consumables are all costs incurred for use of oil absorption materials, oil dispersants and other consumables in the process of

emergency response, as well as necessary storing charge.

## 1. Charges for oil absorption materials

(1) Charges for oil absorption materials are costs incurred for use of various types of oil absorption materials, such as oil absorbent mats and oil absorbent booms, in the process of emergency response for the purpose of collecting oil spilled out to the surface of water, as well as necessary storing charge.

(2) Calculation formula of oil absorption materials is:

$$A = \sum_{i=1}^n (R_i \times Q_i \times C_i + F_i)$$

Amongst which,

$A$ ——charges for oil absorption materials;

$R_i$ ——unit price for purchase of the  $i^{\text{th}}$  type of oil absorption materials;

$Q_i$ ——quantity of use of the  $i^{\text{th}}$  type of oil absorption materials;

$C_i$ ——reasonability coefficient of charges for the  $i^{\text{th}}$  type of oil absorption materials;

$F_i$ ——necessary storing charges for the  $i^{\text{th}}$  type of oil absorption materials.

(3) Unit price for purchase of oil absorption materials shall be checked and ratified in accordance with factors such as the purchase invoices provided by the claimant as well as the market price of the same type

of oil absorption materials at the time of accident.

- (4) Quantity of use of oil absorption materials shall be checked and ratified reasonably as per the evidential materials provided by the claimant.
- (5) Value range of reasonability coefficient of charges for oil absorption materials shall be checked and ratified comprehensively in accordance with applicability of oil absorption materials to the sea state and spilled oil, the reasonability of quantity of use, proportionality between the quantity of oil collected and the quantity of oil absorption materials as well as other relevant factors.

The Claims Settlement Center shall check and ratify strictly and prudently the reasonability coefficient of charges for oil absorption materials. If the value of such reasonability coefficient is not 1, the Claims Settlement Center shall give detailed description in the Claims Settlement Report for the reasons and basis of such adjustment.

## **2. Charges for spilled oil dispersants**

- (1) Charges for spilled oil dispersant are costs incurred in the process of emergency response for using various spilled oil dispersants such as oil disperse agents, oil gelling agents and chemical absorbents, etc to eliminate oil spilled out to the surface of water, and necessary storing charge.
- (2) Calculation formula of charges for spilled oil dispersants is:

$$M = \sum_{i=1}^n (R_i \times Q_i \times C_i + F_i)$$

Amongst which,

$M$  — charges for spilled oil treating agents;

$R_i$  — unit price for purchase of the  $i^{\text{th}}$  type of spilled oil dispersants;

$Q_i$  — quantity of use of the  $i^{\text{th}}$  type of spilled oil dispersants

$C_i$  — reasonability coefficient of charges for the  $i^{\text{th}}$  type of spilled oil dispersants.

$F_i$  — necessary storing charges for the  $i^{\text{th}}$  type of spilled oil dispersants.

- (3) Unit price for purchase of spilled oil dispersants shall be checked and ratified in accordance with factors such as the purchase invoices provided by the claimant as well as the market price of the same at the time of accident.
- (4) Value range of reasonability coefficient of charges for spilled oil dispersants shall be checked and ratified comprehensively in accordance with the applicability of spilled oil dispersants to the sea state and spilled oil, the timing of use of the same, the reasonability of quantity of use as well as other relevant factors.

The Claims Settlement Center shall check and ratify strictly and prudently the reasonability coefficient of charges for spilled oil

treating agents. If the value of such reasonability coefficient is not 1, the Claims Settlement Center shall give detailed description in the Claims Settlement Report for the reasons and basis of such adjustment.

### **3. Charges for other consumables**

- (1) Charges for other consumables are costs incurred for use of other consumables in the process of emergency response, such as garbage bags, spades, hooks, colanders, ropes, straws, temporary storing containers as well as simple tools for cleaning shore walls due to the need of emergency response.
- (2) Charges for other consumables shall be checked and ratified as per factors such as the proof materials provided by the claimant and the market price at the time of accident.

### **4. Proof materials**

The claimant shall provide corresponding evidential materials to prove the name, type, time of use, place of use, condition of use, quantity of use, effect of use of such consumables as well as the situation of pollutants collection, etc, including:

- (1) Various ledgers of consumables, including the inventory records book, the stock-in registration book, the stock-out registration book and the purchase invoices, etc of such consumables, to prove the situation

of purchase and use of the same.

- (2) Records for the situation of use of the consumables, including the time when the consumable was allocated out of the warehouse, the time and method of transporting the consumable to the accident scene, the time when it was put into use, the quantity of consumables used, the quantity of oil collected as well as the work effect, etc. As to the quantity of oil collected by oil absorption materials, the claimant shall also provide collection certification issued by the unit engaged in disposal of pollutants. In addition, situation of use of the consumables shall corroborate with content of ship's logbook, engine logbook and working record of operating personnel.
- (3) The claimant shall provide work report, text, image and video materials, to prove the situation and effect of use of such consumables, or instead, the claimant may provide documents such as assessment report issued by professional institute for the content and effect of work done.

#### **(VI) Charges for disposal of wastes**

Charges for disposal of wastes are costs incurred for disposal of solid wastes containing oil, oily water and scrapped ship equipments in the process of emergency response. Charges for means of transport due to transporting wastes shall be calculated with reference to the aforesaid charges for use of ships and charges for use of vehicles.



1. The type, quantity, time, place and effect of disposal of wastes shall be verified and determined reasonably in accordance with evidential materials provided by the claimant.
2. Charges for disposal of wastes shall be checked and ratified in accordance with evidential materials such as the invoices and certification for collection and disposal issued by the unit having specialized capability for disposal.
3. Additional income obtained by the claimant based on the reclaimed oil shall be used to offset costs actually incurred for emergency response. Unit price of such reclaimed oil shall be checked and ratified with reference to the market price at the time of accident, and the quantity of reclaimed oil shall be determined based on examination and verification on evidential materials provided by the claimant.

#### **4. Proof materials**

The claimant shall provide corresponding evidential materials to prove information such as the type, quantity, method of disposal, time of disposal, place of disposal, effect of disposal of solid waste containing oil, oily water and scrapped ship equipments, as well as the situation of reclaimed pollutants and the overview of unit for disposal of waste, including:

- (1) Logs for disposal of wastes, including disposal records for the type and quantity of wastes, the method, time, place of disposal, the participants, situation of equipments used and the recycling situation, to prove the situation of disposal of wastes.

(2) Relevant documental materials proving that the unit disposing of wastes has the corresponding specialized capability for disposal.

(3) The claimant shall work report, text, image and video materials, to prove the effect of disposal of wastes, or instead, the claimant may provide materials such as assessment report issued by professional institute for the content and effect of work done

#### 5. Examination and verification on rationality

The Claims Settlement Center will examine and verify the rationality of the charges for disposal of wastes based on the quantity of wastes recycled, the actual quantity of wastes disposed of and the effect of disposal as well as other relevant factors.

### **(VII) Charges for personnel**

Charges for personnel are costs incurred for personnel participating in emergency response action in the process of emergency response.

Charges for personnel who are manned onboard for the daily work of the ship shall not be counted as charges for personnel.

#### 1. Calculation of charges

(1) Calculation formula of charges for personnel is:

$$H = \sum_{i=1}^n (R_i \times T_i)$$

Amongst which,

$H$ ——charges for personnel;

$R_i$ ——rate of charges for operation by the  $i^{\text{th}}$  person;

$T_i$ ——chargeable duration of the  $i^{\text{th}}$  person;

- (2) Chargeable duration of charges for personnel shall be from the moment when the emergency response personnel receive corresponding order till the moment such emergency response personnel return to the base after the end of mission. Where there is another separate mission under which it is unnecessary for the personnel to return to the base, till the end of the original mission.

Chargeable duration of charges for personnel shall be counted by hours, less than an hour will be counted as one hour. Chargeable duration of charges for personnel shall not exceed 14 hours a day.

- (3) Rate of charges for operation by personnel shall be checked and ratified respectively in accordance with the posts on which they serve.

Based on different posts, emergency response personnel may generally be divided as senior commanders, on-site commanders, emergency response operators, ordinary operators, logistic support personnel and consulting professors, etc.

Senior commander are personnel who have macro-control ability for emergency response to vessel-caused pollution accidents, conduct comprehensive risk appraisal in accordance with the situation of

accident, make emergency response decisions timely, and organize effective implementation of decisions timely.

On-site commanders are personnel who formulate specific emergency response plan pursuant to decisions of the commanding organization and in combination with the on-site situation, and organize emergency response personnel to implement emergency operation.

Emergency operators are personnel who possess basic knowledge and skills for emergency response and use specialized emergency response equipments and devices to carry out emergency response operations at the scene.

Ordinary operators are personnel who use simple tools to participate in on-site emergency response operation without undergoing professional trainings.

Logistic support personnel are staffs engaged in purchase of materials and supplies, information communication and arrangement of accommodations.

Consulting professors are personnel who have been recognized by relevant institutes of the State to provide consulting suggestions helping in commanding and decisions making for emergency response to vessel-caused pollution accidents, mainly including professor specialized in aspects of maritime, traffic, environment protection, water affairs, rescue and salvage, fire fighting, shipping, petrochemical, meteorology, marine, fishery, medical and health, legal affairs, information assurance, and work safety, etc.

Rate of charges for operation by emergency response personnel shall be checked and ratified in accordance with the following table based on the posts on which they serve.

**Table Rates of charges for operation by emergency response personnel**

<b>No.</b>	<b>Posts</b>	<b>Rate for operation (yuan per hour)</b>	<b>Remarks</b>
<b>1</b>	Senior commander	300	Based on difference in various provinces for per capita disposable income, when conducting assessment, the Settlement Center may add to or minus from these figures by 10%
<b>2</b>	On-site commander	220	
<b>3</b>	Emergency response operator	120	
<b>4</b>	Ordinary operator	100	
<b>5</b>	Logistic support personnel	100	
<b>6</b>	Consulting professor	600	

(4) Posts, quantity and duration of operation of emergency response personnel shall be determined in accordance with proof materials provided by the claimant and the verification result of the same by the Claims Settlement Center.

## 2. Proof materials

The claimant shall provide corresponding evidential materials to prove the name of the worker as well as the content, time and effect of work, including:

(1) List of names of workers as well as their certificates

The claimant shall provide the list of names of workers as well as the emergency response operators, on-site commanders and senior commanders' certificates or training certifications, etc that meet relevant regulations and technical standards of the State.

(2) Attendance sheets of workers and records for situation of work

The claimant shall provide attendance statistics sheet of workers and records for situation of work done, to prove the content of work, duration of operation done by various participating workers. Such attendance statistics sheet and records of work situation shall specify contents in detail on the time when various emergency response personnel arrived at the scene of the accident, the time when they started and finished works such as collecting residual oil on the surface of sea and beaches, cleaning oil pollution and transporting oil pollution wastes, the situation of equipments used by various emergency response personnel, the time when the emergency response work ended, as well as the effect of operation, etc.

(3) Documents proving the effect of work

The claimant shall work report, text, image and video materials, to prove the content, time and effect of work done workers.

**(VIII) Charges for surveillance and monitoring**

Charges for surveillance and monitoring are costs incurred in the process of emergency response for carrying out various surveillances and

monitoring activities.

1. The claimant shall provide corresponding proof materials, to prove the time, way, result and breakdown of costs of surveillance and monitoring, and the Claims Settlement Center shall verify and determine the same in accordance with evidential materials provided for the claimant.
2. In the event of surveillance for oil spill, the claimant shall provide the time, area of scope and frequency of surveillance, breakdown of personnel and equipments mobilized, working records, breakdown of costs as well as invoices, etc.

Where a ship was mobilized for surveillance, the name of the ship, the logbook of the ship, the way for surveillance and the surveillance result etc shall be provided. Where a plane was mobilized for surveillance, the claimant shall provide the type of the plane, the flight time, the flying range and the surveillance result, etc; charges for such ship and plane shall be checked and ratified in accordance with the aforesaid “(I) Charges for use of ships” and “(II) Charges for use of planes” in this Section, the same shall not be counted repeatedly.

Where remote sensing satellite was mobilized for surveillance, materials such as the unit supplying satellite images, the type, specification, quantity and time section of satellite images, the personnel analyzing satellite images, equipment used, work time, analysis report, the breakdown of cost as well as invoices, etc shall be provided.

Where oil spill mathematical model was used to forecast the drifting trajectory of oil spilled, materials such the quantity of simulating, the report of forecasting result as well as the breakdown of costs and invoices, etc shall be provided.

3. In the event of monitoring for oil spill through sampling and laboratory test on spilled oil as well as monitoring for quality of water, the claimant shall provide materials such as the type and time of monitoring, the point for monitoring, the method and frequency of monitoring, number of samples for various monitoring, monitoring report as well as breakdown of costs and invoices, etc.

#### **(IX) Charges for protection of wildlife**

Charges for protection of animals and plants are costs incurred for preventive measures adopted to prevent oil pollution from impairing wildlife, or incurred for action of cleaning and salvaging wildlife that have been polluted.

1. The measures adopted by the claimant shall be those adopted under the organizing of or recognized by relevant governmental competent departments.
2. Qualification and previous achievements provided by the claimant shall be able to prove that the claimant has the qualification and ability to engage in such work.



3. Where the claimant uses oil booms or other professional equipments to prevent spilled oil from drifting to habitats of wildlife, such claimant shall provide proof materials proving that relevant actions had been actually taken. Check and ratification of specific charges shall be done with reference to (IV) “Charges for use of professional equipments” of this Section.
4. As to costs incurred to the claimant for cleaning polluted wildlife, the claimant shall provide relevant proof materials, including list of cleaning equipments used and the breakdown of costs of cleaning, etc.
5. As to Costs incurred to the claimant for capturing animals having oil pollution risk and evacuating them from the original environment for the purpose of mitigating pollution to wildlife from oil spill, such costs shall be checked and ratified in accordance with the amount actually incurred, and the claimant shall provide relevant proof materials.
6. In order to assess the effect of emergency response action of protecting wildlife, the claimant shall record the whole process of the emergency response action, including manpower and non-manpower resources deployed, process of decision-making in various stage of emergency response action, and shall provide written materials for the aforesaid record, or instead, the claimant may provide materials such as assessment report issued by professional institute for the content and effect of work done by the claimant .
7. The Claims Settlement Center will examine and verify the rationality

---

of charges for protection of wildlife based on the content of work and actual effect of protection of wildlife as well as other relevant factors.

**(X) Charges for logistic support**

Charges for logistic support are costs incurred affairs of catering, accommodations, communications, traffic, safety protection, and medical care, etc in the process of emergency response.

Charges for logistic support shall be checked and ratified by the Claims Settlement Center based on the principle of reasonable in accordance with evidential materials provided by the claimant, such as the breakdown of costs and invoices, and with reference to the local price level.

**(XI) Charges for other directly related items**

Charges for other directly related items are other directly related costs which cannot be covered in the above Item (I) to Item (X) but incurred for preventing or mitigating vessel-caused oil pollution damages due to implementation of orders from vessel-caused pollution accident emergency commanding organization.

Charges for other directly related items shall be checked and ratified by the Claims Settlement Center based on the principle of logical and reasonable in accordance with evidential materials provided by the claimant, such as the breakdown of costs and invoices,

## **Chapter III Sub-provisions for Claim Settlement of Costs for Controlling or Eliminating Pollution**

### **I. Scope of application**

These sub-provisions are applicable to claims settlement of costs for controlling or eliminating pollution.

Costs for controlling or eliminating pollution are costs incurred for reasonable measures of preventing, controlling or eliminating pollution adopted by units and individuals, beyond the order of emergency commanding organization, for the purpose of preventing or reducing damages.

### **II. Main content for examination and verification as well as check and ratification on costs**

Main content for examination and verification as well as check and ratification on costs for controlling or eliminating pollution shall be conducted with reference to provisions in Section III “Checking and ratifying of costs for emergency response” of Chapter II “Sub-provisions for Claim Settlement of Costs for Emergency Response”.

---

## **Chapter IV Sub-provisions for Claim Settlement of Direct Economic Losses to Fishery and Tourism etc Sectors**

### **I. Scope of application**

These sub-provisions are applicable to claims settlement of direct economic losses to fishery and tourism etc sectors.

Direct economic loss to fishery and tourism etc sectors refer to actual loss in respect of value to property having direct causation relation with the vessel-caused oil pollution accident, sustained by units and individuals.

Direct economic losses to fishery and tourism etc sectors that the Fund compensates or recompenses mainly include: losses of properties such as facilities and equipments for living and production, reduction of actual value of properties such as aquatic products as well as direct economic losses to other sectors.

### **II. Settlement of claims for damages to properties such as facilities and equipments for living and production**

Damages to properties such as facilities and equipments for living and production are costs of cleaning, repairing or replacing properties of units and individuals engaged in fishery and tourism etc sectors, such as facilities and equipments for living and production, polluted by oils

leaked from vessels.

For instance, costs for reinstating polluted sceneries of bathing beaches or tourist scenic spots open to public; costs for cleaning, repairing and replacing fishing port terminals, cultivation farms, fishing boats, fishing nets and fishing gears of fishery and tourism units and individuals, contaminated by oil.

(I) Method Main content for examination and verification

1. Investigate, examine and verify the value of damaged properties in accordance with information provided by the claimant, such as the ownership, names, specifications, quantity of facilities and equipments for living and production, as well as the time and place of purchase of the same, the manufacturer, price of purchase and invoices of the same.
2. Assess the damage extent of the properties in accordance with the process of damage to properties as well as proof materials provided by the claimant, and determine on whether or not the cleaning, repairing or replacing measure(s) taken by the claimant is(are) reasonable.
3. Investigate, examine and verify costs actually incurred to the claimant for the manpower and resources mobilized for cleaning and repairing properties, as well as costs to the place of repair, the repair units or individuals.
4. Determine, examine and verify the necessity and reasonability of

adopted remedy measures claimed by the claimant to prevent or reduce damages to properties.

5. Examine and verify the reasonability of claimed amount of compensation or recompense.

## (II) Checking and ratifying of costs

1. Calculation formula for damages to properties:

$$( 1 ) E = \sum_{i=1}^n (C_i + F_i)$$

Amongst which,

$E$ ——damages to properties;

$C_i$ ——cost for cleaning the  $i^{\text{th}}$  kind of property;;

$F_i$ ——cost for repairing the  $i^{\text{th}}$  kind of property.

$$( 2 ) E = \sum_{i=1}^n R_i \times \left( 1 - \frac{\sum_{i=1}^n Y_i}{\sum_{i=1}^n Y_i'} \right)$$

Amongst which,

$E$ ——damages to properties;

$R_i$ ——cost for replacing the  $i^{\text{th}}$  kind of property;

$Y_i$ ——the actual service life of the  $i^{\text{th}}$  kind of property;

$Y_i'$ ——the intended service life of the  $i^{\text{th}}$  kind of property.

Damages to properties shall be the result as calculated under Formula (1) or Formula (2), whichever is lower.

2. The reasonable part of costs paid for cleaning and repairing properties shall be recognized.

3. Only when the property was damaged to the extent that it is impossible to clean or repair the same, or the costs of cleaning and repairing are higher than the costs of replacing, can it be checked and ratified as costs of replacing.
4. Verify the value of property from aspects of the use of property and the time when the same was purchased, in accordance with the purchase invoice or other proof materials, and shall deduct amortization cost. Where the claimant could not provide the original purchase invoice, the costs to be compensated may be constructed in accordance with the current market price and the time of purchase, or making an old-for-new deduction based on the proportion that the actual service life of the property accounts to the intended service life of the same.

### III. Settlement of claims for actual value reduction of properties such as aquatic products

Actual value reduction of properties such as aquatic products Reduction of actual value of properties such as aquatic products is reduction of actual value of aquatic products, sustained by units and individuals engaged in aquaculture, due to death and decrease of quality of the same caused by oils leaked from vessels.

(I) Mains content for examination and verification

1. Legality of aquaculture activities

An lawful aquaculture cultivator may apply to the Fund for compensation or recompense in respect of losses to the value of its aquatic products sustained by it due to vessel-caused oil pollution accident.

Where an aggrieved party of vessel-caused oil pollution engages in cultivation at sea without permit from relevant competent administrative authority, the Fund will no compensate or recompense for loss of reduction of actual value for its cultivated aquatic products caused by vessel-caused oil pollution accident. However, it may apply with the Fund to compensate or recompense for its reasonable costs for cleaning, repairing and replacing cultivation facilities.

2. Duration and area of affection by vessel-caused oil pollution accident

Duration and area of affection by vessel-caused oil pollution accident shall be determined in accordance with surveillance and monitoring data of vessel-caused oil pollution emergency commanding organization as well as the actual situation of such vessel-caused oil pollution accident, such as the quantity of oil spilled, the type and the situation of efflorescence of oil spilled as well as the period in which the spilled oil drifted at sea and in combination with evidences provided by the claimant and situation of on-site investigation.



### 3. Type of aquaculture operation

The type of aquaculture operation by the claimant shall be determined in accordance with the information as specified in proof documents, such as the certificate of right to use sea areas or the certificate of right to use waters and tidal flats for aquaculture, provided by the claimant. Mainly including:

- (1) In the event of cage culture, the claimant shall explain the place of cage culture, the cultivated species, the number of cages, the time of release of the species and the growth situation of cultivated aquatic products, etc, and shall provide corresponding photos showing the situation of polluted cages and aquatic products.
- (2) In the event of pond culture (including seeding propagation), the claimant shall explain the place of pond culture (seeding propagation), the location of water inlet, the circle time of water intake and discharge, self-purification equipments, quantity of seeds input(quantity of parents), cultivated species (propagated species), number of ponds (volume of nursery ponds), the time of release of seeds, the situation of growth of the cultivated (propagated) organisms, etc, and shall provide corresponding photos showing the situation of polluted pond culture equipments/seeding propagation equipments and aquatic products as well as other evidential materials such as the pumping records of the local pump station, etc.

(3) In the event of tidal flat culture, the claimant shall explain the place of tidal flat culture, area of bottom sowing, bottom sown species, bottom sowing density, the situation of growth of the cultivated aquatic products, and shall provide corresponding photos showing the situation of polluted bottom sowing equipments and aquatic products.

(4) In the event of hanging culture, the claimant shall explain the place of hanging culture, quantity of seeds input for hanging culture, the time of hanging culture, the situation of growth of hanging cultured organisms, the situation of self-purification of hanging cultured organisms, the situation of pollution to the hanging cultured organisms, change of mouthfeel of the hanging cultured organisms, and shall provide corresponding photos showing the situation of polluted hanging culture equipment and hanging cultured organisms.

#### 4. Quantity of aquatic products polluted

Quantity of properties, such as aquatic products, polluted after occurrence of vessel-caused oil pollution accident, shall be checked and ratified after on-site investigations, based on evidential materials provided by the claimant and in combination with statistics data and information of the local competent government department. Where it is impossible to check and ratify actual loss, the average output per unit area shall be checked and ratified as per average output per unit

---

area of previous three years for the aquatic products of the same species and specification in such region provided by local governmental department.

5. The normal value of aquatic products before pollution and the current value of aquatic products after pollution

Normal value of aquatic products before pollution shall be estimated in accordance with the actual specification of polluted aquatic products upon occurrence of the vessel-caused oil pollution accident, with references to the sale price of same type and specification of aquatic products provided by the local government department; where the local government department cannot provide such price, the same shall be determined with references to the local average market price.

Current value of properties such as the polluted aquatic products after occurrence of the vessel-caused oil pollution accident shall be checked and ratified in accordance with evidential materials provided by the claimant, such as the sales records.

Where the claimant entrusts a fishery pollution accident investigation and appraisal specialized technical unit to follow relevant provisions and standards to assess the cultivation loss caused by oils leaked from vessel and issue assessments report thereon, such report may serve as evidence for claim settlement by the Fund.

## (II) Checking and ratifying of costs

Calculation formula for the reduction of actual value of properties:

$$D = \sum_{i=1}^n (d1_i - d2_i)$$

Amongst which,

$D$  ——reduction of the actual value of properties due to vessel-caused oil pollution accident;

$d1_i$  ——normal value of the  $i^{\text{th}}$  kind of property before occurrence of vessel-caused oil pollution accident;

$d2_i$  ——current value of the  $i^{\text{th}}$  kind of property after occurrence of vessel-caused oil pollution accident.

## VI. Settlement of claims for direct economic losses to other sectors

Direct economic losses to other sectors are actual losses in respect of value to properties, having consequential direct causation relation with the vessel-caused oil pollution accident, sustained by units and individuals of other sectors not covered in the Section II “Settlement of claims for damages to properties such as facilities and equipments for living and production” and Section III “Settlement of claims for actual value reduction of properties such as aquatic products” of this Chapter.

Settlement of claims for direct economic losses to other sectors shall be

checked and ratified in accordance with the actual situation of losses sustained by the claimant as well as relevant evidential materials provided by such claimant. As to the main content to be examined and verified as well as the method for check and ratification on relevant charges, reference shall be made to relevant provisions in Section II and III of this Chapter.

---

## **Chapter V Sub-provisions for Claim Settlement of Costs for Marine Ecosystem and Natural Fishery Resources Reinstatement Measures**

### **I. Scope of application**

These sub-provisions shall be applicable to claim settlement of costs for marine ecosystem and natural fishery resources reinstatement measures.

Costs for marine ecosystem and natural fishery resources reinstatement measures are reasonable costs incurred for mature and effective ecological restoration measures actually adopted by relevant competent governmental department(s) in order to accelerate the recovery progress of marine ecological environment and natural fishery resources polluted by oil spilled from the vessel and reduce or mitigate losses caused by pollution, including reasonable costs for surveillance, monitoring, assessment and research.

The above costs to be compensated or recompensed from the Fund mainly include costs for marine ecological environment reinstatement measures and costs for natural fishery resources reinstatement measures.

### **II. Claim settlement of costs for marine ecological environment reinstatement measures**

Costs for marine ecological environment reinstatement measures are costs

incurred for mature ecological restoration measures actually undertaken to accelerate the recovery of marine ecological environment polluted by oil spilled from the vessel.

(I) Main content for examination and verification

1. The ecological restoration measure undertaken by the claimant shall be one adopted under organizing of the competent government department(s).
2. The qualification and previous work achievements provided by the claimant shall be able to prove that the claimant possesses corresponding qualification and ability to engage in such work.
3. The assessment on the damages caused by oil spilled from the vessel as provided for in the “Assessment Report for Damages to Marine Ecosystem Caused by Oil Spill Pollution” presented by the claimant shall be appropriate, and the ecological restoration measure(s) proposed in such report shall be technically practicable.
4. The time consumed by the claimant for undertaking ecological restoration measure(s) shall be less than the time needed for natural recovery.
5. Unfavorable influence to the natural ecology from the ecological restoration measure(s) undertaken by the claimant shall be relatively small.
6. Costs for the ecological restoration measure(s) undertaken by the claimant shall be less than the ecological environment loss caused in

the natural recovery period.

7. The ecological restoration measure(s) undertaken shall be effective, and there shall be evidence(s) proving that the reinstatement level of ecological environment has reached the effect as expected in the “Assessment Report for Damages to Marine Ecosystem Caused by Oil Spill Pollution”.
8. Examine and verify the authenticity of the assessment on damages caused by oil spill pollution, the practicability of restoration measure(s), the effectiveness of the expected effect as provided for in the “Assessment Report for Damages to Marine Ecosystem Caused by Oil Spill Pollution” presented by the claimant, as well as the reasonability of costs incurred.
9. Conduct on-site inspection, assessing the effectiveness of the ecological restoration measure(s). If necessary, it may entrust qualified assessment unit to conduct subsequent assessment for the ecological restoration effect.

## (II) Checking and ratifying of costs

1. Costs for marine ecological environment reinstatement measures mainly include costs actually incurred for adoption of mature ecological restoration measures as well as reasonable costs for surveillance, monitoring, assessment and research.
2. In the event that marine ecological environment restoration measure(s)



---

and natural fishery resources reinstatement measures(s) are implemented repeatedly, no repeated calculation shall be made.

3. The Claims Settlement Center shall examine and verify the rationality of costs for marine ecological environment restoration measure(s) based on factors such as the implementation effect of ecological restoration measure(s).

### III. Claim settlement of costs for natural fishery resources reinstatement measure

Costs for natural fishery resources reinstatement measure are reasonably costs incurred for adoption of measures such as propagation and release as well as habitat restoration to reinstate natural fishery resources.

#### (I) Main content for examination and verification

1. The restoration measure(s) adopted by the claimant shall be measure(s) adopted under the organizing of relevant governmental competent department(s).
2. The unit undertaking fishery pollution accident investigation and authentication shall have the condition, capability and experiences for carrying out fishery pollution accident investigation and authentication, and shall provide corresponding proof for its capability.
3. Geographic location of natural fishery resources restoration measure(s) shall be consistent with the place where damages occurred.
4. Where the measure of propagation and release is adopted, the species

---

for propagation and release shall be consistent with the species that sustained pollution damages, and shall be limited to economic species only. If it is unable for artificially breeding and seeding of the species sustaining oil pollution damage, the species for propagation and release shall be close to the species sustaining oil pollution damage in respect of environment reinstatement function.

5. Natural fishery resources restoration measure(s) shall conform to relevant provisions of the agricultural administration department of the State in respect of measures such as propagation and release of aquatic organism and habitats restoration.
6. Natural fishery resources restoration measure(s) did not cause adverse consequence to other natural resources or economic resources.
7. Investment in natural fishery resources restoration measure(s) shall match the extent of damages, and costs for natural fishery resources restoration measure(s) shall be less than the damages caused to fishery resources within the natural recovery period.
8. Examine and verify the authenticity of the assessment on damages caused by oil spill pollution, the practicability of natural fishery resources restoration measure(s), the effectiveness of the expected effect as provided for in the “Assessment Report for Damages to Marine Ecosystem Caused by Oil Spill Pollution” presented by the claimant, as well as the reasonability of costs incurred.
9. Conduct on-site research, assessing the effectiveness of the natural fishery resources restoration measure(s). When necessary, entrust

fishery resources research unit to conduct subsequent assessment for the effect of natural fishery resources restoration measure(s).

## (II) Checking and ratifying of costs

1. Costs for natural fishery resources restoration measure(s) mainly include costs incurred for various natural fishery resources restoration measures adopted actually, as well as reasonable costs for surveillance, monitoring, assessment and research.

Amongst which, where propagation and release is adopted as the natural fishery resources restoration measure, the calculation formula of costs for the same is as follows:

$$C = \sum_{i=1}^n C_i = \sum_{i=1}^n (a_i \times t_i \times b_i + d_i)$$

Amongst which,

$C$ ——costs for propagation and release;

$C_i$ ——costs for propagation and release of the  $i^{\text{th}}$  species;

$a_i$ ——quantity of loss of the  $i^{\text{th}}$  species resources;

$t_i$ ——rate of release of the  $i^{\text{th}}$  species (means the proportion that grow-up rate of juvenile fishes, larval fishes and spawns accounts to the grow up rate of seeds);

$b_i$ ——unit price of the seeds of the  $i^{\text{th}}$  species;

$d_i$ ——costs for release of the  $i^{\text{th}}$  species (including labor costs, transportation fees and management fees, etc);

2. The purchase price of species propagated and released shall be reasonable, and shall not be higher than market price of qualified production units. Costs and expenses incurred for undertaking restorative measures (such as cost for ships and costs for personnel, etc) shall not be higher than market price and the standards of the unit that enforced such restorative measures.
3. Rationality of costs for natural fishery resources restoration measures(s) shall be examined and verified in accordance with relevant factors such as implementation effect of such natural fishery resources restoration measures(s).

## **Appendixes of the Vessel-caused Oil Pollution Compensation Fund Claims Settlement Guidelines**

Appendix 1: Notice of Acceptance/Dismissal of Vessel-caused Oil Pollution Compensation Fund for Claim Application

Appendix 2: Notice of Supplementation of Vessel-caused Oil Pollution Compensation Fund for Claim Application

Appendix 3: Vessel-caused Oil Pollution Compensation Fund Claim Registration Announcement

Appendix 4: Vessel-caused Oil Pollution Compensation Fund Notice of Claim Settlement Decision

Appendix 5: Service Receipt of the Vessel-caused Oil Pollution Compensation Fund

## Appendix 1

### **Notice of Acceptance/Dismissal of Vessel-caused Oil Pollution Compensation Fund for Claim Application**

(20 ) XX No.X

XXXX(name of the claimant),

Upon examination on the vessel-caused oil pollution compensation fund claim application submitted by you on (date), it is hereby decided as follows:

- Meets the conditions for acceptance, and the application materials are complete. This Center will organize relevant personnel to conduct investigation and verification on the claimed items. You shall cooperate actively with this Center to carry out investigation and verification on the claim.
- Meets the conditions for acceptance, but the application materials are incomplete. This Center will issue Notice of Supplementation separately, and you shall supplement application materials within specified period.
- Does not meet the conditions for acceptance. Reasons are:\_\_\_\_\_

---

Any other materials relating to this Application shall be served(posted) to 凡与 this Center and noted with case number. As to other matters relating to claim application, please contact this Center. Tel: ××××××.

China Vessel-caused Oil Pollution Compensation Claims Settlement Center

(Seal)

(Date)

Appendix 2

**Notice of Supplementation of Vessel-caused Oil Pollution Compensation Fund for Claim Application**

(20 ) XX No.X

XXXX(name of the claimant),

Upon examination by this Center, the vessel-caused oil pollution compensation fund claim application submitted by you on\_\_\_\_(date) meets the conditions for acceptance, but the application materials are incomplete. The following materials shall be supplemented:

---

---

---

---

Please supplement the above materials within\_\_\_\_days. Failing to supplement the above materials as required within the specified period will be deemed as having waived the right to claim against the Vessel-cause Oil Pollution Compensation Fund.

China Vessel-caused Oil Pollution Compensation Claims Settlement Center

(Seal)

(Date)

Appendix 3

## **Vessel-caused Oil Pollution Compensation Fund**

### **Claim Registration Announcement**

(Overview of the vessel-caused oil pollution accident: including time, place and scope of pollution, etc). Pursuant to the Administrative Measures for the Collection and Use of Vessel-caused Oil Pollution Compensation Fund, this Center accepted the claim application (lodged by the first claimant) in respect of (the vessel-caused oil pollution accident). It is hereby announced relevant matters as follows:

- I. Any aggrieved party of the above vessel-caused oil pollution accident shall, within \_\_\_ days from the day when this Announcement is published, handle claim application registration with this Center, and shall submit written application in accordance with requirements in the Vessel-caused Oil Pollution Compensation Fund Claims Manual.
- II. An aggrieved party of the oil pollution failing to handle claim application registration with this Center within the specified period might undertake the adverse consequence of claim.
- III. As to any other matter relating to this Announcement, please contact this Center. Tel: ××××××.

It is hereby announced.

China Vessel-caused Oil Pollution Compensation Claims Settlement Center

(Seal)

(Date)

**This Announcement is published on \_\_\_\_\_ (journal) dated \_\_\_\_\_.**

Appendix 4



## Vessel-caused Oil Pollution Compensation Fund Notice of Claim Settlement Decision

(20 ) XX No.X

XXXX(name of the claimant),

You lodged claim application on\_\_\_\_ (date) against the Vessel-caused Oil Pollution Compensation Fund in respect of oil pollution damages caused by vessel-caused oil pollution accident in which the polluting vessel can be / cannot be identified. The claimed amount is \_\_\_\_\_ (various items claimed by the claimant, corresponding amount for such items, total claimed amount).

Pursuant to provisions in the Administrative Measures for the Collection and Use of Vessel-caused Oil Pollution Compensation Fund, the Detailed Rules on Implementation of the Administrative Measures for the Collection and Use of Vessel-caused Oil Pollution Compensation Fund as well as the Vessel-caused Oil Pollution Compensation Fund Claims Manual and the Vessel-caused Oil Pollution Compensation Fund Claims Settlement Guidelines, upon investigation, verification and assessment by this Center, and after deliberation at the meeting of the Management Committee of the Vessel-caused Oil Pollution Compensation Fund, it is hereby decided as follows:

Amount of compensation or recompense is \_\_\_\_\_ (corresponding amount of compensation or recompense for various claimed items verified), (amounts of compensations or recompense and reasons thereonxxxxxxxx) \_\_\_\_\_

\_\_\_\_\_

No compensation/recompense shall be made. (Reasonsxxxxxxxx) \_\_\_\_\_

\_\_\_\_\_

If the claimant raises objection to the above decision, it may, within 10 days from receipt of this Notice of Decision, apply with this Center for review once and submit

relevant supplementary proof materials; this Center will not accept application of review submitted after expiration of such 10 days.

As to any other matter relating to this Announcement, please contact this Center.

Tel: xxxxxxxxxxxxxx。

China Vessel-caused Oil Pollution Compensation Claims Settlement Center

(Seal)

(Date)

## Appendix 5

**Vessel-caused Oil Pollution Compensation Fund****Service Receipt**

Person upon whom the document is to be served	
Server	
Pace of service	
Method of service	
Name and serial number of the claim settlement document	
Signature of recipient	____Date:
Reason why the person upon whom the document is to be served rejected the service	____Date
Signature of witness when the person upon whom the document is to be served rejected the service	____Date
Reasons for failure of service	____Date
Remarks	