

# **PROCEDURAL GUIDANCE**

## **CASE DOCUMENTATION**

## NOTES

### Case Documentation

#### GUIDANCE SUMMARY-AT-A-GLANCE

- # Proper case documentation for all spills is important to support your decisions in case of litigation and to justify cost recovery and/or imposition of penalties.
- # Each spill case file should contain documentation describing: the spill, its causes, and site characteristics; communication with the responsible party or potentially responsible party (PRP/RP), state and local officials, and contractors; actions taken at the site; and all costs incurred by the state in responding to the spill.
- # When the PRP/RP accepts responsibility to direct and finance cleanup, explain in writing what environmental, public health, and safety concerns must be addressed and what documentation must be submitted for your review.
- # Monitor the progress of any PRP/RP-directed cleanup. If the PRP/RP does not clean up the spill in an adequate or timely manner, inform the PRP/RP that DEC will take over the cleanup. Document these activities in writing.
- # When the state manages the cleanup, document the activities and costs of the state-hired contractor, all vendor costs, and other state-incurred costs so that these costs can be billed to the spiller. Concentrate also on documenting the technical aspects of a state-managed spill cleanup. The case file should include Job Inspection Reports, field notes, sampling and monitoring data, site maps, photographs, contractor reports, and any other information that describes the actions taken, supports conclusions and decisions about the cause of the spill, identification of the responsible party, the spill cleanup, and achievement of cleanup standards.
- # For more detail about state contractor selection, oversight, and cost documentation, see Part 1, Section 2.
- # Don't ignore the documentation of the more administrative aspects of a statemanaged cleanup. This is critical to supporting the effort to recover state and/or federal clean-up funds from the responsible party.
- # Keep the Spill Information System database current with information about your spill cases. Use the Database Dictionary (Appendix W) to help you with data entry.
- # Complete the Investigative Summary Report (ISR) for interim billings or when clean-up activities are complete. ISRs are required when the case file is being prepared for the cost-recovery process and/or for close-out of the spill. ISR procedures are discussed in this section. ISRs are confidential until after the spill is closed.
- # In appropriate cases, penalties should be assessed against the responsible party for a violation of the Navigation Law and/or the ECL. The penalty recommendation form is filled out and attached to the ISR. Penalty recommendation procedures are considered confidential information. They are for spill responders only and are found in Appendix L.

#### **4.1 Case Documentation for Potentially Responsible Party- and State-Directed Spill**

## Response

One of your most important duties is to ensure that each spill case file contains all the documentation necessary to describe the response actions taken. To provide the complete history and facts concerning a spill, you should document the following: discovery of the spill; investigation and identification of the potentially responsible party (PRP/RP); investigation of the spill; cleanup of the spill; and close-out of the spill. The information should demonstrate how all requirements for the investigation and cleanup of the spill are going to be met and the results achieved. When state or federal funds are expended for spill response, you have the additional responsibility of documenting the costs incurred by DEC. DEC will seek to recover these costs from the party or parties responsible for the spill. The information you collect is the basis for the Investigative Summary Report (ISR) you prepare to recover costs and/or close-out a spill. **The ISR is considered to be material prepared for litigation and, therefore, is not disclosable under the Freedom of Information Law. Questions regarding disclosure in specific instances should be referred to the Counsel's Office.**

This section of the manual provides guidance about suggested and required elements of the spill case file for both potentially responsible party (PRP/RP)- and state-directed spill responses. It is divided into three subsections:

- (1) **Case Documentation of Responsible Party-Directed Spill Response.** When a PRP/RP accepts responsibility for a spill response and cleanup, you are responsible for telling him or her exactly what safety, public health, and environmental concerns must be addressed and what documentation must be submitted for your review and comment. You are also responsible for monitoring the progress of any PRP/RP-directed cleanup. Accordingly, the case file for a PRP/RP-directed cleanup should contain all correspondence among the state, the PRP/RP, and the contractor hired by the PRP/RP, including notes on all phone conversations; all of your notes and other documentation of your investigations and observations of the spill; all correspondence between the state and/or the PRP/RP and local officials; and all reports submitted to the state by the PRP/RP and/or the contractor. If you believe an PRP/RP's progress in cleaning up a spill is inadequate and/or is not being performed in a timely fashion, inform the PRP/RP in writing that DEC will take over the cleanup. Your case file should document the rationale for your decision. Currently, there are no hard and fast rules governing when you should decide to take over a spill cleanup; that is, you must exercise your discretion, recognizing that cleanup of the spill in a timely and effective manner is our primary program responsibility.
- (2) **Case Documentation for Federally- and State-Funded Spill Response.** This subsection discusses case documentation requirements for federally- and state funded cleanups, including information on cost-recovery procedures, in cases where a PRP/RP refuses or is unable to fulfill his or her legal responsibility to clean up the spill. In these cases, document every aspect of the cleanup you manage, including the costs incurred by the state (both contractor costs and your time and expenses). Your documentation of these costs is the basis of all cost recovery actions to recover expended state and/or federal funds (the PRP/RP is billed for these costs). Guidance about documentation of federal- or state-funded spill response has been divided between more technically-oriented and more administratively-oriented topics.
- (3) **General Case Documentation -- Spill Information System, Investigative Summary**

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**Reports, and Penalty Recommendations.** There are several case documentation requirements that apply to every spill case whether or not a PRP/RP or the state directs the cleanup. For example, you will enter information on your cases into the Spill Information System database (SIS) that each regional office maintains as a consolidated computer record of the status of all spill cases in the region. Periodically, each regional office sends its data to the Bureau of Spill Prevention and Response (BSPR) in Albany where a master database is compiled and used to answer inquiries from the press, the public, and legislators. The Spill Information System also provides information for case documentation -- it provides part of the information required in the Investigative Summary Report (ISR).

The ISR is a standardized synopsis of the spill investigation, clean-up activities and results for a site. The ISR must be completed and submitted as a prerequisite to the close-out of a spill. It is used by the Fund Administrator and Attorney General's office for cost-recovery cases or in other instances of legal action. The information in an ISR is partly drawn from the SIS, and partly entered by hand from information in the spill case file. If you determine that a penalty is to be assessed against the spiller for a violation of the Navigation Law and/or the Environmental Conservation Law, the penalty recommendation is then attached to the ISR using a special form. Penalty procedures are considered confidential and are found in Appendix L.

Other portions of the manual pertinent to this topic include Part 1, Section 1.1, Notification Requirements, Part 4, Chapter 4, Review of Responsible Party Contractor Reports, and Part 4, Section 3, Preparation of Payment Packages.

### **1. Documentation of Responsible Party-Directed Spill Response**

When a PRP/RP assumes responsibility for the cleanup of a spill, much of the case documentation is generated by the PRP/RP and his or her contractor in the reports submitted for your review. Make sure these reports are in the case file. In addition, there are several items you will add to the case file. For example, the spill case file includes the ISR and several standard forms you fill out (see below) and; all correspondence and records of telephone conversations between you, the PRP/RP or the contractor, local or other state authorities, and the press or public; any photographs you may take; press accounts of the spill; and any other piece of pertinent information. Document your observations concerning site conditions, effects of the spill, and clean-up progress.

Standard documents which should be in a PRP/RP-directed spill case file include the following:

- # *Spill Response Form (SRF)*. This form (Exhibit 4.1-1) contains information about the caller, the spiller, and characteristics and severity of the spill. It may have complete information about the spill from the initial spill report to the spill Hotline, but you may have to supplement or revise the information as you complete your followup investigation.

Exhibit 4.1-1

Spill Response Form

\*\*\* NYSDEC UPDATED SPILL REPORT FORM \*\*\*

DEC Region: \_\_\_\_\_

Spill No.: \_\_\_\_\_

Spill Name :

Lead DEC :

Caller Info :

Notifier Info :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Spill Date: \_\_\_\_\_

CID#: \_\_\_\_\_

Call Received Date: \_\_\_\_\_

Spill Time: \_\_\_\_\_

Call Received Time: \_\_\_\_\_

Material Spilled:	Class:	Spilled:	Recovered:
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____

Spill Location:

Potential Spiller Info:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Contact: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Spill Cause: \_\_\_\_\_

Resource Affected: \_\_\_\_\_

Source: \_\_\_\_\_

Waterbody: \_\_\_\_\_

Spill Reported by: \_\_\_\_\_

Caller Remarks:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PBS Number:

Tank Number	Tank Size	Test Method	Leak Rate
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____

Classification: C4 Meets Standards?: \_\_\_\_\_

EDO: Y - N \_\_\_\_ UST Eligible?: \_\_\_\_\_

Regional Close Date: \_\_\_\_\_

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- # *Letter of Notification.* This is the letter (Exhibit 4.1-2) sent to the PRP/RP by certified mail-return receipt requested informing him or her of the responsibility and liability under State law for spill response and cleanup and the state's expectation for a timely response. This letter can also contain your direction on possible acceptable activities for the PRP/RP to address the spill. While you can also provide a spiller with a list of contractors used by DEC for spill response and cleanup, DO NOT recommend a contractor. Make sure you indicate that there are other contractors the PRP/RP could hire.
- # *Spill Responsibility Letter.* This form (see Exhibit 1.1-5 in Spill Reporting and Initial Notification Requirements) informs spillers of their responsibility under the Navigation Law and explains the penalties that can be levied if the spiller does not cooperate. It should be sent to the spiller or suspected spiller by certified mail -return receipt requested as soon as a petroleum spill has been confirmed.
- # *Acceptance of Spiller Responsibility Letter.* This form (see Exhibit 1.1-6 in Spill Reporting and Initial Notification Requirements) requires the spiller's signature acknowledging his or her responsibility for containment and cleanup of the spill. This form should be sent by certified mail.
- # *On-Site Investigation Form.* This form (Exhibit 4.1-3), when completed, becomes the record of your initial investigation of the spill and describes what the PRP/RP has indicated is his plan to clean up the spill. Give the original to the PRP/RP and keep a copy in the spill file.
- # *Plan of Action.* The PRP/RP may be asked to submit a plan of action for cleaning up the spill. This plan is a formal statement of the PRP/RP's chosen clean-up procedure, methods, and schedule, and will be the basis for your monitoring of the PRP/RP's progress in cleaning up the spill (see also Part 1, Section 5, Corrective Action Plans).

Other documentation for a case file is generated through the exchange of requests and information between you, the PRP/RP, and/or the PRP/RP's contractor.

General procedural guidelines and documentation requirements for an PRP/RP-directed spill response include the following:

- # Make sure the PRP/RP and his or her contractor are aware of your requirements for submittal of information **to evaluate and monitor the** cleanup properly. In general, the PRP/RP must supply you with regular progress reports, copies of any photographs taken, copies of correspondence with local officials and/or affected homeowners, and any contractor work plans. For UST spills, the PRP/RP also needs to document at least the following:

Letter of Notification

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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RE: Spill No.  
County

Dear \_\_\_\_\_:

This is to advise you that as a result of an investigation by the Department of Environmental Conservation, you are considered responsible for Petroleum Spill No. \_\_\_\_\_ which occurred on [date] at [address], New York. Under Article 12 of the Navigation Law, the discharge of petroleum is prohibited and a person discharging petroleum is required to immediately clean up and remove such a discharge. Violations of Article 12 of the Navigation Law are punishable by penalties of up to \$25,000 per day.

Initiation of containment and removal of this spill must be commenced within \_\_\_\_\_ hours. Please notify me at \_\_\_\_\_ when such work will begin.

Under 181 of the Navigation Law, a person discharging petroleum is strictly liable for all cleanup and removal costs and all direct and indirect damages no matter by whom sustained. Your failure to initiate and complete timely and proper clean up and removal of this spill will result in you being billed for all actual costs incurred by the State of New York, as well as interest and penalties.

Sincerely,

Regional Spill Engineer  
Region

cc: Spill Response Section Chief

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- Sampling and analytical methods used for soil and water samples, including quality assurance/quality control procedures;
  - Soil and water sample test results;
  - Water table elevations over time (at a certain frequency);
  - Well construction details, including boring logs, well locations, and elevation data;
  - Any hydrogeological assessment, including ground-water elevation contour maps, maps showing the extent of any free product or dissolved contaminant plume, information on the amount of product recovered, and calculations of the capture zone and effectiveness of any recovery and treatment system; and
  - Compliance with all necessary permits/approvals to operate recovery or reinjection wells and to treat ground water or soil and discharge effluents and residuals on site or treat and dispose of them off site.
- # If the PRP/RP hires a contractor or initiates cleanup with his or her own resources, give directions as to what is expected and stay on the scene until you are satisfied that the cleanup is being performed adequately. If it takes more than 1 to 2 days for you to be informed that cleanup has started, check to see if the cleanup is proceeding satisfactorily. Make sure your technical direction is limited to describing the possible options for proceeding to clean up a spill; DO NOT direct the cleanup for the PRP/RP. For example, you can indicate that ground-water quality needs to be assessed, but don't show the PRP/RP where to drill the monitoring wells (see also Overview of Spill Program, Roles of Spill Responder).
- # Establish a reasonable schedule for the PRP/RP to clean up the spill, relying on your judgment, experience, and knowledge of the specific characteristics of each case and spill site. Inform the PRP/RP that quick action is desirable and in his or her own best interest.
- # Once the PRP/RP informs you that the cleanup has been completed, the Regional Spill Engineer (RSE) is responsible for notifying the PRP/RP as to whether the cleanup is satisfactory.
- # If the cleanup is judged to be satisfactory, the RSE makes the appropriate entry into the Spill Information System database and spill close-out procedures are initiated (see Part 1, Section

7).

- # If the cleanup is judged to be unsatisfactory, the RSE must so inform the PRP/RP and discuss what steps the PRP/RP must take to correct the situation and how quickly. If the PRP/RP refuses to conduct any additional work, or if the corrective measures are not undertaken in a timely and adequate manner, use the letter in Exhibit 4.1-4 to inform the PRP/RP that DEC will take over the cleanup and that the PRP/RP will be billed for the state's costs.
  
- # If a state agency is the PRP/RP, and that agency has responded in writing to you that they do not have sufficient funds to clean up a petroleum spill (and a delay in cleanup because of funding will have a significant impact on the health and safety of affected residents and/or the environment), then a spill cleanup may be initiated with the Oil Spill Fund. That agency must document that all funding for such activities is exhausted, including assistance by the Office of General Services. The state agency must reimburse expenditures from the Oil Spill Fund as soon as practical through their budgetary process.

If a PRP/RP decides to assume cleanup responsibilities *after* a state-directed cleanup has begun, follow these additional procedural and case documentation guidelines:

- # Agree on the time and date when the PRP/RP is to assume responsibility for the cleanup;
  
- # Send a Notification Letter to the PRP/RP (via certified mail-return receipt requested) outlining possible acceptable activities for cleanup of the spill;
  
- # Notify the state-hired contractor and the PRP/RP in writing (via certified mail) as to the agreed time and date that the state's contractor will no longer be working for DEC at this site;
  
- # Notify the PRP/RP that he or she may retain the same contractor if desired, but that there is no obligation to do so;
  
- # Inform the state's contractor that state and/or federal funds will be used to pay for services rendered up to the agreed time and date; and



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- # Obtain a written agreement from the PRP/RP that clearly states he or she is responsible for these costs.

### 2. Cost Recovery and Case Documentation for Federally- and State-Funded Spill Response

Proper case documentation for state- or federally-funded spill cleanups takes on added importance. Not only does the case file need to indicate that all reasonable and appropriate remedial measures were taken, but the case file must also provide back-up documentation for all the costs incurred. The latter documentation may be used to sustain a cost-recovery action, that is, the PRP/RP or PRP/RPs may be billed for these costs.

Case documentation requirements for a federal- or statefunded spill cleanup can be divided into two categories -- technical and administrative -- although these categories are by no means mutually exclusive. By technical documentation requirements, we refer to requirements to document the site investigation, the design and implementation of the clean-up technology, and other corrective action measures (e.g., the corrective action plan (CAP)). You will include technical documentation concerning most of the materials and information exchanged between you and the state-hired contractor assisting with the spill response and cleanup. The information entered into the Spill Information System Database and the ISR is considered technical documentation; however, the requirement to provide this information applies to all spills, not just to statemanaged cleanups.

The more administrative-oriented requirements deal with notification of PRP/RPs, authorization of contractor work, documentation of contractor costs, and documentation of state-incurred (i.e., non-contractor) costs. Most, but not all, of these requirements are driven by the cost-recovery process. Documentation requirements associated with the preparation of contractor payment packages also fall into this category, but these requirements are covered in Part 4, Section 3.

#### a. Overview of the Cost-Recovery Process

The cost-recovery process begins in the field as you take notes and document your site investigation. Eventually, sample results, hydrogeologic investigation reports, and other data are added to complete the case file. You then use the case file to prepare the Investigative Summary Report or ISR (discussed below). After the ISR is reviewed by the Regional Attorney, it is forwarded to the BSPR

Central Office which reviews it again and adds in the state personnel and vehicle expenses incurred. At this point, the

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remainder of the cost-recovery process differs depending upon whether a project is being funded by the state's Oil Spill Fund or by the federal Leaking Underground Storage Tank (LUST) Trust Fund.

If the project was funded by the state, a "payment package" is forwarded to the Fund Administrator where project cost data are prepared from the vouchers paid on the project (payment packages are discussed in Part 4, Section 3). A total cost statement and demand letter are prepared by the Fund Administrator and then sent to the Attorney General who bills the responsible party and determines what legal action may be necessary or possible.

In contrast, federally-funded spill response projects are processed primarily within the DEC. Initial billing of the responsible party is done by the BSPR Central Office. If the PRP/RP does not respond, the project will be referred back to the Regional Attorney for formal administrative action and legal action, if necessary. For projects that have been funded by both the Oil Spill Fund and the LUST Trust Fund, follow the cost-recovery process for 100 percent state-funded projects. In these cases, a portion of the funds recovered are returned to the LUST Trust Fund.

Every participant in the cost-recovery process on the state's behalf relies completely on the information you generate during the spill cleanup. Therefore, the quality and accuracy of all case documentation is essential for proper recovery of funds.

### b. Case Documentation -- Technical Aspects

Your objective in documenting the more technical aspects of a state-managed spill cleanup is to record the sequence of events and the actions taken, and, most importantly, to be able to support, explain, and, if necessary, defend the decisions you made in cleaning up the spill. It should be obvious, therefore, that if you document all costs incurred by the state and cannot explain and defend why those costs were incurred, then you have jeopardized the state's ability to recover those costs. Concise and descriptive technical documentation is required for cost recovery and, if

needed, for the defense of your clean-up actions in court.

How much of a technical record you must build for any one

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case is a matter of some personal judgment and discretion, and will also be influenced by how enforcement sensitive you think a case may turn out to be. There are, therefore, very few mandatory requirements and one basic rule-of-thumb: *when in doubt, include it in the case file*. Exhibit 4.1-5, "Minimum Ground-Water Investigation Report Guidelines," outlines examples of documentation you may want to include in the case file for a ground-water investigation.

Some of the key components of a complete technical record include: (1) your Job Inspection Reports or your field notes, (2) site maps, photographs, and, as applicable, all sampling results, boring logs, and other monitoring or analytical results, (3) hydrogeologic or other assessment reports from your contractor, (4) reports describing the design, operation, maintenance, and performance of the clean-up technology, (5) necessary permit and other regulatory approvals, (6) copies of correspondence with any and all parties concerning the site investigation and clean-up activities, and (7) letters of responsibility, vehicle accident reports, tickets and other background information on the spill that can be used to determine the feasibility of cost recovery.

### Job Inspection Reports or Field Notes

You may use either a Job Inspection Report form or keep field notes to document the status or completion of portion of the site work undertaken by the contractor(s) hired by the state.

Information in the Job Inspection Report should be used to verify that the contractor's costs are acceptable before the contractor's invoice(s) can be forwarded for payment. The Report should list accurately basic project identification information; labor, by name, type, and hours; equipment, by I.D. number and number of hours; and materials used, by quantity and type. This record will be compared later to the contractor's invoices. A report must be filled out every time you visit a spill site to inspect the contractor's progress. Provide in the section marked "Work Being Done Today," a concise description of the contractor's work as you observed it during your visit, and list the resources used. If you decide instead to use field notes, use

## Exhibit 4.1-5

### Minimum Ground-Water Investigation Report Guidelines

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1. Background Information (from initial investigation information)
    - A. Base map of study area showing site
    - B. Site map showing buildings, tanks, wells, etc.
  2. Investigative Objective(s) - i.e., identify source, determine extent of contamination, clean-up procedures, potential impacts
  3. Investigative Methodology - i.e., vapor analysis, monitoring wells, test pits, tank tests, etc.
  4. Findings
    - A. Hydrogeologic Data
      1. Soil/Bedrock Description
        - a) Boring logs/monitoring well location map
        - b) Well completion records
      2. Depth to Ground Water
        - a) Water level/measurements/dates
      3. Direction of Ground Water Flow
        - a) Ground-water contour map
    - B. Extent of Contamination
      1. Floating Product -
        - a) Floating Product Plume/Thickness Map
        - b) Product Identification
      2. Dissolved Product
        - a) Laboratory/Field Analysis Data
        - b) Dissolved Plume (ISO-Concentration) Map
      3. Vapors
        - a) Laboratory/Field Analysis Data
        - b) Vapor Plume (Iso-Concentration) Map
    - C. Potential Impact Areas
  5. Clean-up Action Taken
  6. Results (product recovered, present extent of contamination, etc.)
-

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uniform abbreviations and file your notes in chronological order.

As an alternative, you may use the Job Inspection Report to record cost information and keep field notes to:

- # Record the names of individuals you may interview and what you learned from them;
- # Record your observations of site conditions and assessments of safety or health hazards;
- # Record the results (including QA/QC results) of any sampling or monitoring (air, water, or soil) that you or your contractor may conduct at the site; and
- # Record the nature and performance of the emergency and longer-term response actions taken.

In short, any reader of your field notes should be able to recreate the chronological progression of investigative and clean-up activities conducted at that site, and understand the conclusions and decisions you reached and the data upon which these decisions were based. Field notes should be usable in legal proceedings and to verify that the contractor is properly billing for work performed (e.g., use them as a checklist to make sure that work is not billed for twice).

A separate field notebook (or notebooks) should be kept for each site and used to catalog all activities from the initial spill report and investigation until the cleanup is complete and the spill closed out. Also include in your notes cross-references to other reports and documents in the case file as appropriate.

### Site MaDs and PhotoaraDhs

We recommend including site maps or diagrams in the case file. These maps or diagrams should include a dimension scale, indicate which direction is north, and show all important surface features of the site (e.g., buildings, streams, drainage swales) and, as applicable, subsurface features (e.g., tanks, storm or sanitary sewers, utility lines).

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Also indicate on the site map how the surrounding land is used; for example, show the locations of nearby wells or surface water bodies. Other maps and diagrams that are developed as part of hydrogeological assessments of subsurface spills should also be part of the case file. These diagrams often show the locations of monitoring and/or recovery wells, or show ground-water elevation contours and the areal extent of floating and/or dissolved product plumes. We also recommend including process flow or design drawings of any product containment or recovery system which is installed.

Including black-and-white or color photographs in the case file will also help you document site conditions and illustrate what you saw at the time of your inspection. To be of use in an investigative report, photographs must be properly taken and documented. At the time you take the photograph, you should note on paper the date, time, where you were standing, and what the photograph shows. The pictures should establish, beyond any doubt, that the petroleum being photographed was discharged by the responsible party. The investigator should take "areas shots to identify the vessel or facility as well as Close ins photographs to show the amount, type of pollutant, and source. If the pictures are taken from an aircraft, it is usually beneficial to have the initial photographs show a wide area in order to fix the position of the aircraft and the discharge. To facilitate documentation and permit easy reference to pictures in a report, only photographic prints will be acceptable. Slides are acceptable only for special uses such as presentations. The photograph shall be indelibly marked with the spill number, PIN, if appropriate, and the photograph number, if appropriate. The investigator shall keep a photographic log in the project file.

Local controls to insure that the chain of custody for each roll of film is not broken will vary with the size and workload of the unit. Preferably, each office should have a single lab perform its developing and should inform that lab that the photographs are to be used for documentation of NYSDEC spill investigations. The lab should be required to deliver the negatives in one continuous strip, instead of cutting them into segments.

### Type of Equipment

Photographic equipment ranges from the Aim and shoots still camera to complex 35-mm systems and video cameras. The simplest camera that is adequate for the

conditions in the area should be used. A picture that is properly

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taken and documented is far more valuable than a high quality picture that is poorly documented or is challenged due to the use of a special attachment. It should be remembered that the intent of photography is to enhance an investigative report and not to provide Magazine quality photographs. On the other hand an inadequate camera will provide disappointing results and may do irreparable harm to a complex report.

### Aerial Photographs

Aerial photographs of pollution incidents present certain problems not encountered in ground level photography. Excessive motion due to the high speed of the aircraft, air turbulence, and power-plant vibration can be minimized by using high speed film and cameras with high shutter speeds and by taking care not to brace the cameras or the photographer against the aircraft. The pilot may assist in minimizing movement by slowing the aircraft and by banking the aircraft towards the subject when in position for a good photograph. Hovering in a helicopter may be useful, but there may be vibrations which have to be corrected by using high-speed film and cameras. Interpretation of the photographs will also be affected by the angle of the sun, any shadows, the aircraft's altitude, and the presentation angle of the subject.

Atmospheric haze may also be a problem for the aerial photographer. To minimize the effects when there is considerable haze, the photographs should be taken at low altitudes through an open door or window, the sun should be behind the camera, and a polarizing filter should be used. The exposure setting indicated by the camera's light meter will be accurate if you are using a single lens reflex camera with a built-in meter. When you are using a camera with an external light meter and a filter, the aperture will have to be wider, or the shutter speed lower than that required without the filter, as filters reduce the amount of light reaching the film.

While most of the above comments apply to a 35-mm cameras, some of them apply to the "aim and shoots type. It is emphasized that aerial photographs should be taken with the simplest camera that gives consistently good results. Each pollution sighting is to be photographed on a separate roll of film.

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### Surface - Level Photographs

You should take photographs of the affected area and note the applicable information such as date, time, where you were, and what the photograph shows. Both long-range and detailed close-range color photographs should be taken of the discharge and the suspected source of the discharge. Long-range photographs should include enough of the surrounding scenery to permit positive identification of the location (landmarks, people, name and homeport on a vessel's hull, etc.). Closerange photographs should be related to long-range pictures to show where they fit in.

A person, tape measure, yardstick, etc. should be used to indicate relative size. On many prints, particularly those having a textural finish, a felt-tip pen can be used to point out specific areas to be illustrated (some detail can be lost with textured finishes, however). Photographs taken of a pollution incident should depict a fair and accurate representation of the situation. The minimum number of photographs which should normally be taken include:

- (1) A comprehensive one, showing a broad view of the scene.
- (2) At least one showing the path taken by the pollutant from the source to the water, and more if necessary.
- (3) One or more which shows the pollutant in the water or of contaminated soil.

When photographing oil in water, care should be taken that the angle and distance are such as to preclude confusion between the oil and the natural surface reflection of the water, and between discolored water and shadow effects.

Other subjects that should be included in photographs to the maximum extent practicable:

- 1) Vessels:
  - (a) The vessel and its wake, if underway.
  - (b) The discharge and its relationship to the vessel (long-range and short-range).
  - (c) The vessel's name.

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- (d) The source of the discharge from the vessel (if ascertainable).
  - (e) If a tow, the towing vessel and its wake, in addition to the tow's wake.
  - (f) Any unusual activity on the deck of the vessel.
  - (g) Any buoys or other structures in the area (including land masses) and their positions in relation to the vessel. This will aid in documenting the exact location of the vessel.
  - (h) Any other vessels in the immediate area and their wakes.
  - (i) Any other possible sources of discharge in the immediate area.
- (2) Facilities and other sources:
- (a) The facility (or suspect source) in sufficient detail to provide positive identification, including its relationship to any other landmarks.
  - (b) The point source of the discharge (if available), in sufficient detail to identify its location on the facility.
  - (c) The sheen/discoloration in the vicinity or extending from the suspect facility (long-range and short-range).
  - (d) Any vessels moored at the facility, or anchored or moored in the immediate vicinity.
  - (e) Any unusual or incriminating activity on the facility or vessels in the immediate vicinity.
  - (f) Any other suspected sources in the immediate area.

### Sampling Results and Other Monitoring Data

The case file should also contain all monitoring and sampling data collected at the site by DEC, its contractors, or by other emergency response personnel at the scene. These data typically

include readings from air monitoring instruments and the laboratory results for soil, surface water, ground water, drinking water, air (ambient and indoor), and product samples taken at the site over the

## NOTES

course of the cleanup. Sampling data documenting the performance of any installed removal, recovery, or clean-up technology should also be kept in the case file. Other technical data you should include in the case file are boring logs, well construction logs and elevations, water table elevations, engineering drawings, free product recovery records, permits and manifests, and disposal records for all solid or liquid products, wastes, and effluents. Documentation should be included to show that all QA/QC and chain-of custody procedures were followed. If these procedures are not followed, the reliability of the analytical results immediately becomes suspect. Refer to Part 2, Section 4, Quality Assurance/Quality Control Procedures.

### c. Case Documentation -- Administrative Aspects

Do not neglect the administrative aspects of documenting DEC's response to a spill. Paying attention to the administrative aspects of proper case documentation is important in order to: (1) avoid liability for you and the state, and (2) help support the state's efforts to recover its costs from the party or parties believed to be responsible for the spill.

Once you decide that the state must assume responsibility for spill response and cleanup:

- # Send a Letter of Notification (via certified mail with return receipt requested) to the PRP/RP, if identified, stating that the state will initiate its own spill cleanup, and that the PRP/RP will be billed for these costs; and
- # Telephone the BSPR Central Office for a Project Identification Number (PIN), Cost Center Accounting Number, and Time & Activity Codes. BSPR will send you an Oil Spill Accounting Request Authorization Form for your case file.

When you call BSPR, you will be asked why you are electing to use a particular contractor for your site. Be prepared to justify your choice of a standby contractor. Guidance on the process of contractor

selection and callous is provided in Part I, Section 2.

The remaining administrative documentation requirements concern the use of a state-hired contractor for spill response and cleanup, any vendor costs incurred by the state in its conduct of the cleanup, and documentation of your own time and expenses. The various

## NOTES

forms and letters you will use are shown in Exhibit 4.1-6.

### Notifying Your Standby Contractor

The process of documenting DEC's use of a spill response contractor or vendor starts with the selection of a contractor or vendor and continues until the case is closed and the contractor or vendor is paid. DEC has developed several contractor work authorization and cost documentation forms for your use; these forms are presented and discussed in greater detail in Part 4, Section 3, Preparation of Payment Packages. Originals or copies of each of these forms should appear in your completed spill case file.

- # *Spill Response Form (SRF)* (Exhibit 4.1-1).
- # *Letter of Authorization to the Contractor.*
- # *Oil Spill Accounting Request Authorization Form.*
- # *Contractor's Payment Application/Voucher Certification (32-19-3).*
- # *Notice of Satisfactory Work Completion.*

### Using Vendors

Occasionally, you or your standby contractor will need to use the services of a vendor or subcontractor that is not on your region's list of standby contractors (i.e., standby contractors are those contractors whose contracts have been preapproved by the state). The process of soliciting vendor services is a little more involved than making a call to request that work begin (essentially, what you do if you're using a standby contractor), but the requirements for documenting the use of the vendor's services and the costs incurred for those services are very similar to those for documenting standby contractors' services. Examples of these forms can be found in Part 1,

**Exhibit 4.1-6**

**Administrative Documentation for  
State- and Federally-Funded Cleanups**

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<b>Paperwork for for Spill File</b>	<b>When Contractor Used</b>	<b>When Vendor Used</b>	<b>When Other Costs Incurred</b>
Spill Response Form	X	X	X
Letter of Notification	X	X	
On-Site Investigation Form	X	X	
Contractor/Vendor Authorization Form	X	X	
PIN/Cost Center Account No. Time & Activity Codes	X	X	X
Monthly Equipment Usage Form		X	
Time Sheet			X
Oil Spill Authorization Form	X	X	
Contractor's Payment Application Voucher Certification	X	X	
Notice of Satisfactory Work Completion	X		
Deficient Payment Package (if applicable)	X		
Payment Package Transmittal Form	X	X	
Solicitation Record		X	
Standard Voucher		X	
Standard Clause Form		X	

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## NOTES

Section 2, State Contractor Selection and Callout, and in Part 4, Section 3, Preparation of Payment Packages. The spill case file must contain the following administrative documentation:

- # *Spill Report Form.*
- # *Letter of Authorization to the Vendor.*
- # *Solicitation Record.* Guidelines for Solicitation Record are found in Exhibit 4.1 -7.
- # *NYS Standard Vouchers Form (AC92).*
- # *Standard Clauses (Attachments A and B).*
- # *Contractor's Payment Application/Voucher Certification (32-19-3).*
- # *Voucher Payment Package Transmittal Form.*

### Documenting Your Own Time and Expenses

DEC also seeks reimbursement from PRP/RPs for your time and expenses related to spill response and cleanup. Accordingly, these costs must also be documented and allocated to each spill case. Keep a site-specific account of the time you spend managing a state-directed spill response by recording the appropriate time and activity codes on your time sheet. Copies of your time sheets should be part of the spill case file. Also keep a site-specific record of the expenses you incur. Keep receipts for all purchases in the case file.

You must also submit a Monthly Equipment Usage Report (Exhibit 4.1-8) each month to your regional office. This report documents the costs incurred for vehicle and equipment usage and maintenance for project-related activities during the course of the month through your use of the appropriate time and activity code.

### Documentation of Hazardous Materials Sells

Many of the procedures and forms described above were developed originally for the oil spills portion of the Spill Response Program. Similar procedures and forms have been developed for authorization, cost documentation, and other administrative aspects of using a standby or solicited contractor for

## Exhibit 4.1-7

### Guidelines for Solicitation Record

---

The Office of the State Comptroller has advised the purchasing requirements are the same as for any program area, except for real emergencies. An emergency is an event that endangers life, health, or property. Political or public pressure per se does not constitute need for emergency action.

Solicitation requirements are:

1. Provide a detailed description of materials or services (specifications) that are presented or sent to vendors to solicit bids.
  - b. For purchases up to \$1,500, one bid obtained by phone or preferably by written quotation is required if price is known to be reasonable. If time is available, additional quotations should be obtained to assure the best price.
2. For purchases between \$1,500 to \$5,000 - Solicit at least three written quotations. Submit a list of vendors, addresses, and quoted prices.
4. For purchases over \$5,000:
  - a. Solicit a minimum of five quotations.
  - b. Submit list of vendors, addresses, quoted prices, and one copy of NYSDEC standard clauses (32-02-2) signed by accepted bidder (normally low bidder).
  - c. If applicable, submit cost breakdown of materials labor charges. Include invoices for material and salary and fringe benefits for labor charges.
  - d. Review voucher and sign to certify material and labor quantities and costs are true and correct.
  - e. Provide a statement to describe and justify the purchase.

**Exhibit 4.1-8**

**Monthly Equipment Usage Report  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
INSTRUCTIONS**

**BEGINNING OF MONTH**

1. Complete identification section.
2. Enter 6 digit vehicle/equipment I.D. Number.
3. Enter 4 digit month/year, i.e. May, 1980 would be **0580**
4. Enter beginning mileage/hours, (in whole miles or hours only).
5. You are now required to estimate and record daily mileage/ hour by specific 4 digit time and activity codes. The daily activity codes should correspond to the activity codes used daily to record time on you "Time and Activity Record". Record whole miles or hours only. Cars and trucks are recorded in miles. Tractors, bulldozers, boats and construction equipment are recorded in hours.

**BEGINNING WITH DAY 1 ON THE BOTTOM OF THE FORM**

1. Check (T) each day that the vehicle/equipment is used. Circle (O) each day that the vehicle equipment is out of service for repair.
2. Enter ending daily mileage/hours.
3. Calculate and enter total daily usage. NOTE: For day 1, or the first time the vehicle/equipment is used during the month, subtract the beginning mileage/hours for the month from the ending mileage/hours entered for the day to obtain total daily usage. Total daily usage for the remainder of the month is calculated by subtracting the previous day's ending mileage/hours from the current day's ending mileage/hours.
4. Estimate and record total daily usage by specific activity code(s). **Daily usage should be distributed to the primary activity(s) requiring primary activity(s) requiring vehicle/equipment use on a given day.**

NOTE: The total mileage/hours distributed daily should equal the sum of each amount entered in the activity code columns.

5. If more than 12 activity codes are required during the month, prepare and attach a second form.
6. Operator's name (printed) is required for all pool vehicles/equipment.

**END OF MONTH**

1. Enter ending mileage/hours.
2. Calculate and enter total monthly mileage/hours. This total should be the same as:
  - a. The total daily usage column total.
  - b. The total of all activity code columns.
  - c. The difference between beginning and ending mileage/hours.
3. Calculate and enter total days used (add each (T) in days used column).
4. Calculate and enter days out of service for repairs, (add each (O) in days used column).
5. Calculate and enter monthly totals for each activity code column used. The sum of all activity code column monthly totals should equal the total monthly usage.
6. Sign certification under vehicle I.D. number and monthly date.
7. Submit completed report to the appropriate regional office.

**FUEL USE**

1. Record gallons and tenths of fuel obtained for day vehicle is fueled.
2. At end of month, total fuel used for month at top of column.

MAINTENANCE SECTION				
LAST SERVICE		SERVICE DURING MONTH		
Date	Mileage/Hrs.	Description	Date	Mileage/Hrs.
		Lubrication		
		Oil Change		
		Oil Filter		
		Air Filter		
		Tune-up		

**Exhibit 4.1-8  
Monthly Equipment Usage Report  
(continued)**

36-15-2 (3/84)

REGION		OPERATOR'S NAME (Last, First, M.I.)				SOCIAL SECURITY NUMBER				BUREAU				<b>VEHICLE/EQUIPMENT I.D. NO.</b>						
ENDING MILAGE/HOURS		DAYS USED DURING MONTH				OFFICE LOCATION				<table border="1" style="width: 100%; height: 20px;"> <tr> <td style="width: 20px;"></td> </tr> </table>										
BEGINNING MILAGE/HOURS		DAYS OUT OF SERVICE FOR REPAIRS				COUNTY ASSIGNMENT				<b>MONTH/YEAR</b> <table border="1" style="width: 100%; height: 20px;"> <tr> <td style="width: 20px;"></td> <td style="width: 20px;"></td> <td style="width: 20px;"></td> <td style="width: 20px;"></td> </tr> </table>										
<b>D A Y</b>	DAY/ USED (.) IN REPAIR	DAILY ENDING MILAGE/ HOURS	TOTAL DAILY USAGE	<b>DISTRIBUTION OF DAILY MILAGE/HOURS BY SPECIFIC ACTIVITY CODE</b>												I certify that travel was official State business.				
				Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	Activity Code	SIGNITURE	DATE
<b>MONTHLY TOTALS</b>																		<b>OPERATOR'S NAME FOR POOL VEHICLES/EQUIPMENT ONLY</b> (Please print)	GALLONS FUEL	<input checked="" type="checkbox"/> TTL
31																				31
30																				30
29																				29
28																				28
27																				27
26																				26
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7																				7
6																				6
5																				5
4																				4
3																				3
2																				2
1																				1

## NOTES

responding to hazardous material spills, as shown in Exhibit 4.1-9. For example, an ISR is filed for both hazardous material and oil spill cases. There is one important difference between BSPR's response to oil spills and our response to hazardous material spills, however, which is reflected in the administrative documentation requirements and procedures for hazardous material spills. Whereas BSPR provides emergency response for both oil and hazardous material spills, we are not involved with longer-term cleanup of hazardous material spills.

This difference between the two response procedures and how that difference affects documentation requirements is explained in greater detail in Part 4, Section 3, but a brief summary is presented here. First, we now have standby contractors for emergency response to hazardous material spills. Engage their help much as you would the help of a standby contractor for oil spills. Once you are ready to submit the Payment Package, you must submit the Contractor's Application for Payment Form 32-19-1 (Exhibit 4.1-10) and the Labor Affidavit (Exhibit 4.1-11) for contracts over \$5,000 (note that this form must be signed by a notary public) in addition to the contractor's invoices. The contractor's Federal Identification Number must also be included.

### Documentation of Solicited Contractors

If you must solicit a contractor for response to a petroleum or hazardous material spill because a standby contractor is not available, you will have to generate a Solicitation Record. Again, there are different forms to use when you prepare the Payment Package depending upon the clean-up costs. See Exhibit 4.1-7 for forms and documents.

### **3. The Spill Information System Database**

The Spill Information System consists of both fixed fields and a history file for each project. Each regional office maintains its own database, and periodically each region sends its database electronically to the BSPR Central Office where a master database is assembled. This information is useful in managing the spill, as well as in providing reports to EPA, and developing the Investigative Summary Report (ISR). The BSPR Central Office also uses this master database as an up-to-date accounting of the status of all oil and hazardous substance spills for responding to information requests.

**Exhibit 4.1-9  
Hazardous Waste Spills -  
Paperwork Requirements Using Contractor**

Amount	Cost of Spill Cleanups				With A Contract Any
	0-\$1,500	\$1,500-\$5,000	\$5,000-\$20,000	\$20,000+	
<b>PAPERWORK</b>					
Standby Voucher	Yes	Yes	No	No	No
Contractor's Application for Payment	No	No	Yes**	Yes**	Yes
Contractor's Invoice	Yes	Yes	Yes	Yes	Yes
Purchase Order	No	Yes*	No	No	No
Service Agreements	No	No	Yes*	No	No
Formal Contract	No	No	No	Yes*	No
Solicitation Record	Yes	Yes	Yes	Yes	No
Contractor's Federal IDS	No	Yes*	Yes*	Yes*	Yes

\* Submit these items as soon as possible because they have to go through the contract approval process before the bill gets paid off

\*\* Affidavit required for final payment on service agreements and formal contracts

Exhibit 4.1-10

Contractor's Application for Payment - Hazardous Materials

22 (9-1) (2/82)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF FISCAL MANAGEMENT  
**CONTRACTOR'S APPLICATION FOR PAYMENT**  
(UNIT PRICE CONTRACT)

PAYEE (Name and Address)     WORK PERIOD ENDING <b>19</b>	FOR INTERNAL USE ONLY	
	STATE COMPTROLLER'S PRE ADJUST CERTIFIED FOR PAYMENT IN THE SLM OF \$ _____	COMPTROLLER'S CONTRACT NUMBER _____
	BY _____	CERTIFICATE NUMBER _____
		ORIGINATING AGENCY _____
		DATE PREPARED _____

With Final Payment Attach Labor Affidavits for Payroll Period to Conform to New York State Labor Law Section 220.

SCHEDULE I FINANCIAL STATEMENT			
LINE	CONTRACT VALUE	LINE	WORK PERFORMED
1. Original Bid Price	\$ _____	1. Contract Work Performed (Schedule V Col 2)	\$ _____
2. Change Order (Schedule VI Col 1)	\$ _____	2. Change Orders (Schedule VI Col 2)	\$ _____
3. Net Contract Amount	\$ _____	3. Value earned to Date	\$ _____
4. Maximum Retainage (15% of Line 3)	\$ _____	4. Retainage (15% up to Maximum)	\$ _____
		5. Value Earned to Date Less Retainage	\$ _____
		6. Less Prior Payments	\$ _____
		7. Pay	\$ _____

**SCHEDULE II CERTIFICATION BY CONTRACTOR**

I, \_\_\_\_\_ do hereby certify that I am \_\_\_\_\_ of the Company/Corporation \_\_\_\_\_

herein referenced and contractor for the work described in the foregoing application for payment. According to my knowledge and belief all items and amounts shown on the face of this application for payment are correct. All work has been performed and/or materials supplied, the foregoing is a true and correct statement of the contract account up to and including the last day of the period covered by this application.

DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

**SCHEDULE III CERTIFICATION OF INSPECTOR**

I certify that I have checked and verified the above application for payment; that to the best of my knowledge and belief it is a true and correct statement of work performed and/or material supplied by the contractor; that all work or material included in this application has been inspected by me and/or by my duly authorized representative or assistants and that the work has been performed and/or materials supplied in full accordance with requirements of the referenced contract; and that payment claimed and requested by the contractor is correctly computed on the basis of work performed and/or material supplied to date.

DATE \_\_\_\_\_ ARCHITECT/ENGINEER \_\_\_\_\_

**SCHEDULE IV ENDORSED BY DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

EXAMINED AND APPROVED BY RESPONSIBLE DIVISION OR BUREAU \_\_\_\_\_ APPROVED FOR PAYMENT BY DIVISION OF FISCAL MANAGEMENT \_\_\_\_\_

DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

EXPENDITURES							LIQUIDATION				
Dist	Cont Contr	Var	FY	Object	Account		Amount	Orig. Agency	PO/Contract	Line	F/P
					Dist	Subende					

Exhibit 4.1-10

Contractor's Application for Payment -  
Hazardous Materials  
(continued)

PROJECT						CONTRACT NUMBER					
						WORK PERIOD					
SCHEDULE V JOB PROGRESS											
ITEMIZED PROPOSAL				WORK COMPLETED TO DATE							
Item No	Unit Price	Estimated Quantity	Type of Work	COLUMN 1 Contract Amount	Actual Quantity	COLUMN 2 Amount	Code				
				\$		\$					
				TOTALS	\$	\$					
SCHEDULE VI APPROVED CHANGE ORDERS											
No.	z	COLUMN 1	WORK %		COLUMN 2	No.	z	COLUMN 1	WORK %		COLUMN 2
		Additions—Deductions	Prior	New	Value Earned to Date			Additions—Deductions	Prior	New	Value Earned to Date
		\$			\$			\$			\$
								SUBTOTAL			\$
GRAND TOTAL		\$			\$	TOTAL		\$			\$

**Exhibit 4.1-11  
Labor Affidavit**

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**AFFIDAVIT  
As to Payment of Wages Pursuant to Section 220a of the Labor Law**

Contract No. \_\_\_\_\_ Project \_\_\_\_\_

of \_\_\_\_\_, contractor under the above identified contract, certify that, except as herein stated, all laborers (Laborers include all laborers and mechanics exclusive of executive or supervisory employees) employed on this project have been paid for their services for the last payroll period which ended \_\_\_\_\_.

This deponent does also represent and certify the amounts due and owing from the contractor or subcontractor to or on behalf of any and all laborers for daily or weekly wages on account of labor performed upon the work under said contract on the date of the ending of the aforesaid payroll period, as follows (IF NONE, SO STATE.)

\$ \_\_\_\_\_, due and owing to \_\_\_\_\_  
\$ \_\_\_\_\_, due and owing to \_\_\_\_\_

(Signed) X \_\_\_\_\_

STATE OF NEW YORK

{ SS.:

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared before me \_\_\_\_\_, to me known and known to me to be the person described in and who signed the foregoing statement, who being by me duly sworn said that he is \_\_\_\_\_ of \_\_\_\_\_  
(Officer of Individual) (Contractor)  
the \_\_\_\_\_ for which he executed the  
(Corporation or Partnership)  
foregoing statement; that he is authorized to execute the said statement for an in behalf of the said \_\_\_\_\_, contractor; that he has read the said statements so signed by him and knows the contents thereof and that the same is true and to his own knowledge.

---

NOTARY PUBLIC

## NOTES

You must ensure that accurate information for your spill cases is entered into the system regularly as the spill case file is completed. Refer to the NYSDEC Spill Information System Database dictionary (see Appendix W) for the proper format and examples of the required data entries. The database dictionary also lists the information that will be entered by BSPR once the data file is sent to Albany.

#### **4. Preparing the Investigative Summary Report and Making a Penalty Recommendation**

The Investigative Summary Report or ISR (Exhibit 4.1-12) is, in effect, a two-page summary of the more detailed information contained in the spill case file. In general, it should answer the questions who, what, when, where, and why. Remember, it is the only documentation initially seen by the Central Office, the Fund Administrator, and the Attorney General. You are to complete an ISR for each spill case.

Part of the information included in the ISR is extracted electronically from the Spill Information System Database and arranged on the ISR form. Some of the information items often need further explanation, however, and some information for the ISR must be entered manually. You, together with the RSE, are responsible for adding any necessary elaboration and for completing the ISR using information from the spill case file and drawing upon your personal knowledge of the case. Make sure the most current information is shown on the ISR, as some of the earlier data from reports or documents may be outdated.

The data elements of the ISR are also found in the Spill Information System and the Database Dictionary. Exhibit 4.1-13 at the end of this chapter also provides a crossreferenced checklist for each required ISR entry.

Note that the ISR is also the mechanism after consultation with your RSE, for the submission of a recommendation that a penalty be assessed in a case for violations of the provisions of Article 12 of the Navigation Law and/or the Environmental Conservation Law. Procedures for penalty recommendations is considered confidential for the spill responder. Detailed information on these procedures is found in Appendix L, marked confidential.

Your preparation of the ISR involves these steps:

- # Review the spill case file;
- # Note changes in the data initially recorded;

Exhibit 4-A-13

Sample Investigative Summary Report

TO: Thomas Quinn, Bureau of Spill Response, Rm 326

Date:2/19/88

FROM: Regional Spill Engineer

Spill Number: 8701234 Pin No. 97005
Cost Center(S): 90 970052--87 T/A Code: 4307
Cost Center(F):

Spill Date: 05/13/87
Date Cleanup Completed: 08/05/89 Date Spill Reported: 05/13/87

Amount Spilled: 50G Petroleum Spilled: #2 fuel
Amount Recovered: 30G Material Spilled:

Spill Name: JOE SPILLER'S GARAGE
Owner's Name: JOE SPILLER

Spill Location: 245 RIVER ST
City/Town: NOWHERE
County: ALBANY

Resources Impacted: Ground water; private water supply well impacted

Caller: SALLY CITIZEN Insurance Company:
Affiliation: LOCAL RESIDENCE Policy No.:
Telephone: (942) 274-5500

Name of Spiller: JOE SPILLER
Street: 38 SUN STREET
City, State, Zip: TROY, NY 13053

Name of Spiller:
Street:
City, State, Zip:

**Exhibit 4-A-13**  
**Sample Investigative Summary Report**  
**(continued)**

ISR continued

-2-

Date: 02/19/88

Region: 4

Spill Number: 8701234

Pin No: 97005

Source and cause of spill: Commercial est. (no petro for sale). Cleaning out a heating oil tank.  
Deliberately dumped the waste in back of garage.

---

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Investigation Performed

Pictures taken  
 Samples results (water, soil, air). Please circle.  
 Gas chromatograph tapes available  
 Witness statement/name & address. (If yes, identify below.)  
 Police report Tom Parker  
 Hydrogeological report available 244 River St.  
 Boring logs Albany  
 Letter of responsibility sent  
 Motor vehicle accident report:  
License No. \_\_\_\_\_ Vehicle Type \_\_\_\_\_  
 ECO ticket issued/violation \_\_\_\_\_  
 Other (please describe) \_\_\_\_\_

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Conclusion: Witness saw employee of Joe Spiller's garage dump the oil behind his garage along  
property line. Lab samples match product in ground water to fuel oil still in tank.  
Hydrogeological report indicates fuel oil reached the shallow water table and subsequently  
contaminated Sally Citizen's water supply. Mr. Spiller refused responsibility for the spill.

---

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Recommendation for penalty attached.  
 Penalty is not recommended as ECL violations are pursued.  
 Penalty is not recommended.

\_\_\_\_\_  
Regional Spill Investigator

\_\_\_\_\_  
Regional Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## NOTES

- # Indicate the name of the potentially responsible party, or that no PRP/RP has yet been identified;
- # Generate the basic ISR using the Spill Information System;
- # Fill in the following items manually on the ISR:
  - (1) Resources Impacted - A brief description of the environmental impacts and residential impacts of the spill;
  - (2) Insurance Carrier - Obtained from the PRP/RP;
  - (3) Source and Cause of Spill - A brief description, which should be used as part of the basis for penalty recommendations;
  - (4) Investigation Performed - Check off those items that are available in the spill file;
  - (5) Conclusion - Your assessment of the spill and the spiller, which can also serve as a basis for a penalty recommendation;
  - (6) Check off whether a penalty is recommended;
  - (7) If a penalty recommendation is made, check off the applicable provision of law; (See Appendix L for the Penalty Recommendation Form)
  - (8) State additional facts supporting your recommendation of the penalty and the amount;
  - (9) Recommend penalty; and
  - (10) Sign and date the Penalty Recommendation.
- # Give the completed ISR to the Regional Attorney for review and approval; and
- # Send the reviewed ISR to the BSPR in Albany for a completeness check and further processing, and **place one copy of** the ISR in the spill case file.

Once your ISR arrives at the BSPR in Albany, the following additional steps in the process will occur:

## NOTES

- # If a penalty was recommended, BSPR program staff and legal counsel review the spill case and recommendation, and either concur with recommendation; or alter the
- # DEC administrative costs are tabulated and added to the ISR package. The ISR and DEC administrative costs (and penalty recommendation, if applicable) are submitted to the Fund Administrator in the State Comptroller's Office;
- # The Fund Administrator compiles and verifies all contractor/vendor costs for the project; and
- # When seeking to recover state funds, the Fund Administrator prepares and forwards a total cost statement, a narrative of events, and a demand letter to the State Attorney General's Office, which then bills the responsible party by issuing a formal demand letter. Part 4, Section 3, provides more information about the cost recovery process.

**Exhibit 4.1-13**

**Cross-Referenced Checklist for ISR Entries**

<b>ISR Information Entry</b>	<b>Information Discussed/Found In Form</b>	<b>Manual Section</b>
PIN Number		4, 3
Spill Number	SRF	
T ~ A Code		4, 3
Cost Center Code		4, 3
Federally/State Funded		4, 3
Insurance Carrier/Policy No.	Daily Log <sup>b</sup>	
Name of Spiller	SRF	
Address of Spiller	SRF	
License Plate Number	SRF	
Telephone Number	SRF	
Location of Spill	SRF	
Material Spilled	SRF	
Amount Spilled	SRF	
Amount Recovered	SRF	
Owner's name and address	SRF	
Date Spill Reported	SRF	
By Whom Reported	SRF	
Date Cleanup Completed	NWSC <sup>c</sup>	

<sup>a</sup> SRF - Spill Response Form

<sup>b</sup> Daily Log = RSE's daily narrative of events and site investigations

<sup>c</sup> NSWSC = Notice of Satisfactory Work Completion

**Exhibit 4.1-13**

**Cross-Referenced Checklist for ISR Entries  
(continued)**

<b>ISR Information Entry</b>	<b><u>Information Discussed/Found In</u></b>	
	<b>Form</b>	<b>Manual Section</b>
Source and Cause of Spill	SRF	
Resources Impacted	SRF	
Names of Other Agencies Involved	Daily Log	
Pictures Taken	Investigation	4, 1
Samples Taken	Daily Log	
Witness Statements		
Police Report		
Names and Addresses of Witnesses		
Hydrogeological Report		
Letter of Responsibility		
Motor Vehicle Accident Report		
Penalty Recommendation		4, 1
Provisions of Laws Violated		4, 1

<sup>a</sup> SRF = Spill Response Form

<sup>b</sup> Daily Log = RSE's daily narrative of events and site investigations

<sup>c</sup> NSWC = Notice of Satisfactory Work Completion