SOUTH DAKOTA

PETROLEUM RELEASE COMPENSATION FUND

523 E. Capitol Avenue Pierre, South Dakota 57501
(605)773-3769 / Fax (605) 773-6048
sd.gov/prcf

INSTRUCTION SHEET

Attached to this sheet are five forms that must be reviewed carefully, signed and/or initialized where appropriate, and returned to the claims investigator. The forms must be completed in their entirety and returned in a timely manner to facilitate claim processing without unnecessary delay.

Please check to make sure the forms were included in your packet as follows:

1) Application form
2) Subrogation Assignment
3) South Dakota Substitute W-9 Form
4) Partial List of Ineligible Expenses
5) Checklist for Fund Applicants

Feel free to contact the Petroleum Release Compensation Fund claims investigator for assistance completing the application packet.

Please keep a copy of the forms for your records.

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APPLICATION FORM

ALL SECTIONS PROVIDED IN THIS FORM MUST BE COMPLETED. For assistance, you may wish to contact the Petroleum Release Compensation Fund.

Name of Release Site: _____ **PRCF No.:** _____ **DENR No.:** _____

[Please Print or Type]

1. Applicant (name, address, city, state) _____
_____

2. Release Site Address _____
_____

3. Legal Description of Contaminated Site _____
_____

4. Fuel Suppliers Motor Fuel License No.: _____

5. What substance(s) were released? (check) ☐ Gasoline ☐ Diesel ☐ Jet Fuel ☐ Heating Oil ☐ Gasohol
☐ Other _____

6. What type of container held the petroleum before the spill? (check one)
☐ Vehicle Trailer ☐ Underground Storage Tank ☐ Aboveground Storage Tank ☐ Other _____

7. Date Spill Was Discovered? _____

8. Date Spill Was Reported to Dept. of Environment and Natural Resources? _____

9. Contact Person for Applicant (name, address, and telephone number) _____
_____

10. Narrative Description of the Spill (use additional paper if necessary)

I hereby certify that the foregoing statements are true and correct to the best of my knowledge and beliefs. Furthermore, I hereby certify that any expenses submitted in this claim are for cleanup expenses incurred in accordance with SDCL 34A-13.

_____ _____
(Signature) (Date)

_____
(Printed/Typed Name)

SOUTH DAKOTA

PETROELUM RELEASE COMPENSATION FUND

SUBROGATION ASSIGNMENT

In consideration of and to the extent of payment from the South Dakota Petroleum Release Compensation Fund, hereinafter referred to as PRCF, pursuant to South Dakota Codified Law CH 34A-13, the undersigned _____ (Applicant) hereby assigns, transfers, and subrogates to the PRCF all of the rights, claims, interest, and rights of action which the Applicant may have against any party, person, or corporation, including insurers, liable under any contract or tort theory for the cost of corrective action at_____ (Location) from _____, 20____ (Date Release Reported to DENR) to the present. The Applicant authorizes the PRCF to sue, compromise, or settle in the Applicant's name or otherwise all such claims and to execute, sign releases and acquittances, and endorse checks or drafts given in settlement of such claims in the name of the Applicant with the same force and effect as if the Applicant executed or endorsed them. It is the intent of the parties that the PRCF be fully substituted for the Applicant and subrogated to all of the Applicant's rights to recover the amount paid by PRCF including attorney's fees.

The Applicant warrants and represents that no settlement has been made by the Applicant with any party, person, or entity against whom a claim may lie, and no release has been or will be given to anyone responsible for the cost of corrective action, and that no such settlement will be made nor release given by the Applicant without the written consent of the PRCF. The Applicant covenants and agrees to cooperate fully with the PRCF in the prosecution of such claims and to procure and furnish all information and documents in the Applicant's knowledge and possession necessary in such proceedings and agrees to attend and cooperate in interviews, and testify in depositions, hearings and trials as the PRCF deems necessary. It is understood the Applicant is to be saved harmless from costs in any such proceeding brought by the PRCF. Should the applicant decide to engage separate legal counsel, it shall be at Applicant's own cost unless otherwise agreed in writing.

_____
(Signature)

_____
(Printed/Typed Name)

_____
Entity Name (If applicant is a corporation, partnership, etc.)

_____
(Title)

_____
(Address)

_____
(City), (State)

STATE OF_____

COUNTY OF_____

On this _____ day of _____, 20 ___, before me appeared _____ to me personally known and who acknowledged the execution of the foregoing instrument as his/her free act and deed, for the consideration set forth therein.

(Seal)
My Commission Expires_____

_____
Notary Public

State of South Dakota
BFM-0001 (V03/201907)

Substitute **W-9**

Vendor Coordinator
Environment & Natural Resources
523 E Capitol Ave
Pierre, SD 57501
Send Faxes to: 605-773-4068

DO NOT send to IRS

Taxpayer Identification Number (TIN) Verification

Print or Type
Please see attachment or reverse for complete instructions.
This form can be made available in alternative formats to qualified individuals upon request.

Legal Name
(as entered with IRS) **If Sole Proprietorship enter your Last, First MI**

Business Name
If doing business as (DBA) or enter business name of Sole Proprietorship

Order Address (where order should be mailed)
PO Box or Number and Street, City, State, ZIP + 4

Remit Address (where check should be mailed)
PO Box or number and street, City, State, ZIP + 4

Entity Designation (check only one) *Required*

- ☐ Individual / Sole Proprietor
- ☐ Partnership
- ☐ C Corporation
- ☐ S Corporation
- ☐ Limited Liability Company - Individual
- ☐ Limited Liability Company - Partnership
- ☐ Limited Liability Company - Corporation
- ☐ Governmental Entity
- ☐ Hospital Exempt from Tax or Government Owned
- ☐ Long Term Care Facility Exempt from Tax or Government Owned
- ☐ Trust/Estate
- ☐ All Other Entities (specify e.g. 501(c)(3), etc.)

Taxpayer Identification Number (TIN)

___ ___ ___ ___ ___ ___ ___ ___ ___

Exemptions

Exempt payee code (if any):

Exemption from FATCA reporting code (if any):

Check Only One *Required*

- ☐ Social Security Number (SSN)
- ☐ Employer Identification Number (EIN)
- ☐ Individual Taxpayer Identification Number for U.S. Resident Aliens (ITIN)

Certification
Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number, AND
2. I am not subject to back up withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to back up withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.
3. I am a U.S. person (including a US resident alien).

Printed Name	Printed Title	Telephone Number ( )
Signature		Date (mm/dd/yy)

Optional Direct Deposit Information

Your Bank Account Number ☐ Checking ☐ Savings	Bank Routing Number (9-digit ABA #)	Name on Bank Account

THIS IS A:
☐ new direct deposit ☐ change of existing (providing old banking information required to change existing)

Old Bank Account Number	Old Routing Number (9-digit ABA #)	**You must provide the previous banking information to make a change.**

Required e-mail address (Please make this LEGIBLE)

If you provide an email address you will be sent electronic notification when a payment is issued. You will also receive a PIN for use when logging into the SD Vendor Self Service website at http://bfm.sd.gov/vendor. We will **NOT** share your email address with anyone or use it for any purpose other than communicating remittance information.

Information below to be completed by the State Agency. Vendor Number required for any new vendors added to SDAS.

State Agency:	Agency Contact:	Date:	Vendor Number assigned by SDAS:

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PARTIAL LIST OF INELIGIBLE EXPENSES

The following partial listing is provided to assist you in recognizing some expenses associated with projects involving upgrading of petroleum tank systems or cleanup of petroleum contamination or both that are not eligible for reimbursement under this program.

1) CAPITAL IMPROVEMENTS --

- New Tanks/Equipment;
- Installation of New Tanks/Equipment;
- Bedding Material for New Tanks/Equipment, *e.g., pea rock, sand, special fills used to seat or bed tanks*;
- Concrete, Asphalt, or Other Resurfacing *(in excess of 110% of the surface dimensions of the excavation done for remediation or where it did not previously exist)*;
- Betterment of Property *(depreciation is applied when appropriate)*;
- Higher Quality Surfacing Than What Previously Existed *(for example, replacement of 4 inch concrete with 6 inch concrete with a gravel base and wire mesh re-enforcement is an improvement)*.

2) ADMINISTRATIVE COSTS --

- Interest Expense;
- Legal Expenses *(unless approved by the PRCF before incurring costs)*;
- Other Administrative Costs Specifically Associated With:
  - Tracking Invoices,
  - Breaking-out Eligible and Ineligible Costs,
  - Compiling Material for a Claim,
  - Legal Expenses Incurred for Tracking Claims,
  - Appeals, etc.

3) ENVIRONMENTAL COSTS --

- **Lab Work for:**
  - Testing of Tank Contents, *e.g., water, sludge, sand, or petroleum product*;
  - "Rush" lab analyses *(unless authorized in advance by the PRCF)*;
  - Analyses Using Unapproved Testing Methods;
  - Analyses of Inappropriate Constituents

- **Cleanup Work for:**
  - Removal of Tank Contents, *e.g., water, sludge, sand, or petroleum product*;
  - Assessment or Cleanup of waste oil, hydraulic oil, or any material *other than those defined as "Petroleum" in SDCL 34A-13-1, e.g., gasoline, diesel, fuel oil, jet fuel, kerosene, or gasohol*;
  - Excavation Costs Beyond Backfill Area of Tank(s), *unless a site assessment is conducted*;
  - Site Assessment and/or Cleanup Activity Outside Backfill Area of Tank(s), *unless written approval received from PRCF prior to incurring the costs*;
  - Costs associated with remediation that exceed the minimum requirements to bring your release site into compliance with state environmental standards.

- **Other Items:**
  - Mileage Greater Than 250 Miles One Way;
  - Airline Travel *(Note: Allowance permitted for surface travel up to 250 miles)*.
  - Consultant "MARKUPS" on --
    - General Contractor Expenses,
    - Landfill Fees,
    - Travel,
    - Utility Bills,
    - Per Diem Expenses;

(Note: Some "markups" are acceptable such as those on dedicated or disposable equipment, lab fees, and some specialized contractor expenses. Specialized contractor expenses include well drillers, electricians, plumbers, etc. who have been sub-contracted to install a remediation system.)

4) MISCELLANEOUS COSTS --

- Business Down Time;
- Any increased cost of cleanup with the goal of limiting business downtime;
- "Right-of-Entry" or "Trespass" Fees;
- Damage caused by excavation Equipment;
- Costs associated with actions that exceed the minimum requirements to bring your release site into compliance with state environmental standards are not eligible for reimbursement;
- Charges billed by your contractor or environmental consultant which exceed PRCF allowances;
- Any Expenses Specifically Excluded in SDCL 34A-13 and ARSD 74:32.

SDCL 34A-13-31 authorizes the Petroleum Release Compensation Board to "...reduce otherwise allowable claims submitted by the covered party...equal to the amount of the ineligible claim" when the covered party "...knew or should have known that the claimed reimbursement was not allowable".

I, the undersigned, have read and understand expenses shown above are specifically excluded from coverage of the South Dakota Petroleum Release Compensation Fund.

_____

(Signature)

_____ _____

(Printed/Typed Name) (Date)

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CHECKLIST FOR FUND APPLICANTS

The following checklist is to provide you with some basic information regarding the requirements for obtaining reimbursement from the Petroleum Release Compensation Fund (PRCF). It contains some very important information about the forms, procedures, and your duties after a petroleum spill has been reported. This checklist cannot cover all requirements and procedures. It will, however, give you a basic understanding of what may be needed from you. Failure to provide the necessary information or cooperate with the PRCF may jeopardize your eligibility for funding.

PLEASE CHECK IN THE SPACE PROVIDED AFTER REVIEWING EACH ITEM

☐ **APPLICATION:** The application must be filled out **completely**, signed, and dated by the Applicant.

☐ **W-9:** This form must be completed, signed and dated by the Applicant.

☐ **SUBROGATION ASSIGNMENT:** This form must be filled out completely, signed, and dated by the Applicant and notarized. The **original notarized** form must be returned to the Fund's investigator. Signing this form allows the PRCF the right to recover any payment(s) made to you from your insurance company if they provide pollution/contamination cleanup coverage.

☐ **INSURANCE LETTER:** You must submit a letter from your insurance company or insurance agent telling us what coverage they provide for pollution/contamination cleanup and the applicable deductible amounts. A letter from your past insurance company or agent may also be required.

☐ **CONSULTANT and CONTRACTOR EXPENSE GUIDELINES:** These guidelines outline how the PRCF reviews the corrective action work completed and help determine if the expenses charged by are reasonable and reimbursable by the PRCF.

☐ **PAY REQUEST FORM FOR CONTRACTOR AND CONSULTANT EXPENSES:** Pay request forms have been included in your packet for you to complete and submit with each request for reimbursement. *Please note that no expenses should be submitted for reimbursement until you have received a corrective action plan from your environmental consultant or are requested by representatives of the Fund to do so.*

☐ **ITEMIZED CONTRACTOR INVOICES:** A detailed itemization (provided by the contractor) must accompany all requests for reimbursement of contractor expenses. This itemization should include the costs and associated units for all activities the contractor performed and invoiced. Miscellaneous expenses must be detailed. Any entry such as "other expenses" is not acceptable. The itemization should be performed by your contractor, documenting their actual charges. The itemization should not be performed by you, based upon the PRCF cost guidelines.

Rev. June 2018

☐ **REQUIREMENTS FOR REIMBURSEMENT:** In addition to the forms listed above, there are several other requirements that must be met before reimbursement can be made. The most important ones are listed below.

- **Payment of Deductible -** No reimbursement can be made until you have paid **eligible expenses** equal to the required deductible. Evidence in the form of a cancelled check(s) is required. Because you are the party signing the contract with both the environmental consultant and the excavation contractor, you are responsible for payment of these bills even if they exceed the amount of the deductible. While the PRCF can make co-payments to both you and your contractor, this does not alleviate you of your responsibility to pay your bills. **The PRCF does not reimburse for any interest or carrying charges.** Therefore, it is important to pay your bills promptly.

- **Documentation of Petroleum Contamination -** Petroleum contamination must be identified at concentrations that exceed the state environmental standards for soil or groundwater or both before a release site is eligible for PRCF reimbursement. Sufficient laboratory analysis of the soil or groundwater is required to verify the contamination, which must be documented in the environmental consultant's written reports.

- **Submittal of Documentation -** You are responsible for assuring that all environmental consultant reports with the information about the cleanup are submitted to the Fund's Claims investigator, the PRCF office in Pierre, and the Department of Environment Groundwater Quality staff. Until you provide the required documentation, no pay request will be considered by the PRCF. The essential documents include, but are not limited to:

  - **Contracts** (approval by the PRCF is required);
  - **Pre-assessment Report** (work plan)**;**
  - **Assessment Reports;** and
  - **Corrective Action Plan (CAP)** **Note: Approval of the CAP by the PRCF is required prior to reimbursement!**

☐ **COMPLIANCE WITH REGULATORY REQUIREMENTS:** Reimbursement for cleanup expenses cannot be made unless you are in substantial compliance with federal and state regulations applicable to the tank(s) involved in the release. Please contact the Department of Environment and Natural Resources Tank section at 605-773-3296 if you have questions regarding compliance requirements.

☐ **INELIGIBLE EXPENSES:** The partial list of ineligible expenses that you must sign, date and return to the PRCF are some of the expenses that are NOT REIMBURSED by the PRCF.

I, the undersigned, have read and understand the items checked above.

_____
(Signature)

_____ _____
(Printed/Typed Name) (Date)

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PAY REQUEST FORM

Complete this form for each payment request if you are applying for reimbursement. Return the completed form to the Fund's investigator for review and processing along with the applicable invoices and any canceled checks. ALL APPROPRIATE BLANKS PROVIDED IN THIS FORM MUST BE COMPLETED.

APPLICANT: _____ **PRCF #:** _____ **DENR #:** _____

CONSULTANT/CONTRACTOR EXPENSES
Invoice Information

VENDOR NAME	AMOUNT OF CANCELLED CHECK	INVOICE DATE	INVOICE NUMBER	GROSS INVOICE AMOUNT	REQUESTED AMOUNT
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$			$	$
	$	**TOTALS**		$	$

Note: Excavation contractor claims require completion of the "Excavation Contractor Detail" form or a similarly detailed invoice.

SDCL 34A-13-31 authorizes the Petroleum Release Compensation Board to "...reduce otherwise allowable claims submitted by the covered party...equal to the amount of the ineligible claim" when the covered party "...knew or should have known that the claim reimbursement was not allowable". A "Partial List of Ineligible Expenses" is available from the Petroleum Release Compensation Fund.

I, the undersigned, have read and understand the above statements. I hereby certify that the foregoing amounts submitted for reimbursement from the Petroleum Release Compensation Fund are true and correct to the best of my knowledge and beliefs. Furthermore, I hereby certify that the expenses submitted in this claim are for cleanup expenses that were incurred in compliance with SDCL 34A-13.

_____

Total amount requested for reimbursement **$** _____

_____
(Signature)

_____ _____
(Printed/Typed Name) (Date)

FORMS THAT ARE NOT FILLED OUT CORRECTLY WILL BE RETURNED TO THE APPLICANT.

EXCAVATION CONTRACTOR DETAIL

This information must be included in the contractors invoice or detailed on this form. Without this information, the PRCF will be unable to process your claim.

TYPE OF WORK	UNIT COST			TOTAL COST
Mobilization / Demobilization of Equipment				$ _____
TANK REMOVAL AND DISPOSAL				
Tank size in gallons _____	# of Tanks _____	Cost per tank	$ _____	$ _____
Tank size in gallons _____	# of Tanks _____	Cost per tank	$ _____	$ _____
Tank size in gallons _____	# of Tanks _____	Cost per tank	$ _____	$ _____
SURFACE REMOVAL				
Asphalt: Thickness in inches _____	# of Sq Yd _____	Cost per Sq Yd	$ _____	$ _____
Concrete: Thickness in inches _____	# of Sq Yd _____	Cost per Sq Yd	$ _____	$ _____
With rebar? Yes ☐ No ☐				
Excavation (in-place yardage)				
Excavate Soil:	# of Cu Yd _____	Cost per Cu Yd	$ _____	$ _____
CONTAMINATED SOIL (loose yardage)				
Hauling: Cost $/Cu Yd/Mile $ _____	# of Cu Yd _____	# of Miles (one way)	_____	$ _____
FILL MATERIAL (loose yardage)				
Purchase:	# of Cu Yd _____	Cost per Cu Yd	$ _____	$ _____
Placement and Compaction:	# of Cu Yd _____	Cost per Cu Yd	$ _____	$
Hauling: Cost $/Cu Yd /Mile $ _____	# of Cu Yd _____	# of Miles (one way)	_____	$ _____
RESURFACING				
Asphalt: Thickness in inches _____	# of Sq Ft _____	Cost per Sq Ft	$ _____	$ _____
Concrete: Thickness in inches _____	# of Sq Ft _____	Cost per Sq Ft	$ _____	$ _____

Other (attach additional pages if required)

_____ $ _____
_____ $ _____
_____ $ _____

INVOICE SUBTOTAL	$ _____
____% TAX	$ _____
CONTRACTOR TOTAL	$ _____

LANDFILL INFORMATION

# of Cu Yd _____	Cost per Cu Yd	$ _____	$ _____
	____% TAX		$ _____
	LANDFILL TOTAL		$ _____

GRAND TOTAL **$** _____