



This document is scheduled to be published in the Federal Register on 02/14/2012 and available online at <http://federalregister.gov/a/2012-02953>, and on FDsys.gov

3510 -NK

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Indirect Cost Rates for the Office of National Marine Sanctuaries for Fiscal Years 2008 and 2009

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice

SUMMARY: The National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries (ONMS) is announcing the establishment of new indirect cost rates on the recovery of indirect costs for its component organizations involved in natural resource damage assessment and restoration activities for fiscal years (FY) 2008 and 2009. The indirect cost rates for these fiscal years and dates of implementation are provided in this notice. More information on these rates and the ONMS policy can be obtained from the address provided below.

FOR FURTHER INFORMATION CONTACT: Lisa Symons, 301-713-7275; FAX: 301-713-0404

SUPPLEMENTARY INFORMATION: The mission of the ONMS with respect to Natural Resource Damage Assessment (NRDA) is to repair and restore injuries to sanctuary resources caused by: releases of hazardous substances or oil under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C., 9601 et seq.) or the Oil Pollution Act of 1990 (OPA) (33 U.S.C., 2701 et seq.); or physical injuries under the National Marine Sanctuaries Act (NMSA) (16 U.S.C., 1431 et seq.). ONMS consists of the following component organizations: thirteen national marine sanctuaries and Papahānaumokuākea Marine National Monument within NOAA's National Ocean Service. The Natural Resources Section of the Office of NOAA General Counsel supports litigation for ONMS. ONMS conducts NRDA as a basis for recovering damages from responsible parties and uses recovered funds to restore injured sanctuary resources.

When addressing NRDA incidents, NOAA seeks to recover the costs of the damage assessment from responsible parties who are potentially liable for an incident. Costs include direct and indirect costs. Direct costs are costs for activities that are clearly and readily attributable to a specific output. In the context of the ONMS, outputs are typically associated with damage assessment cases. Indirect costs reflect the costs for activities that collectively support the ONMS's mission and operations in support of NRDA work, but not connected to specific cases. For example, indirect costs include general administrative support and traditional overheads. Although these costs may not be readily traced back to a specific direct activity, indirect costs may be allocated to direct activities using an indirect cost distribution rate.

Consistent with standard federal accounting requirements, the ONMS is required to account for and report the full costs of its programs and activities. Further, the ONMS is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA, and the NMSA. Within the constraints of these legal provisions and their regulatory applications, the ONMS has the discretion to develop indirect cost rates for its component organizations and formulate policies on the recovery of indirect cost rates subject to its requirements.

The ONMS's Indirect Cost Effort

In October 2002, the ONMS hired the public accounting firm Cotton & Company (C&C) to: (1) evaluate the cost accounting system and allocation practices; (2) recommend the appropriate indirect cost allocation methodology; and, (3) determine the indirect cost rates for the organizations that comprise the ONMS.

The ONMS requested an analysis of its indirect costs for fiscal year 2002. The goal was to develop the most appropriate indirect cost rate allocation methodology and rates for the ONMS component organizations. C&C has continued its assessment of the ONMS's indirect cost rate system and structure from FY2002 to present.

C&C concluded that the cost accounting system and allocation practices of the ONMS and GCNR component organizations are consistent with federal accounting requirements. C&C also determined that the most appropriate indirect allocation method was the Direct Labor Cost Base for all ONMS and GCNR component organizations. The Direct Labor Cost Base is computed by allocating total indirect costs over the sum of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor. The indirect cost rates that C&C has computed for the ONMS and GCNR component organizations were further assessed as being fair and equitable. A report on C&C's effort, their assessment of the ONMS's cost accounting system and practice, and their determination respecting the most appropriate indirect cost methodology and rates can be obtained from: Lisa Symons, ONMS 1305 East West Highway, Silver Spring, MD 20910.

C&C reaffirmed that the Direct Labor Cost Base is the most appropriate indirect allocation method for the development of the FY 2008 and 2009 indirect cost rates.

The ONMS's Indirect Cost Rates and Policies

The ONMS will apply the indirect cost rates for FY 2008 and 2009 as recommended by C&C for each ONMS component as provided in the following table. The ONMS will apply the FY 2009 indirect rate to the Natural Resources Section as noted in the following table. Prior year indirect costs can be found in notices from the NOAA Office of Response and Restoration.

ONMS component	FY 2008 indirect rate (percent)
ONMS Florida Keys National Marine Sanctuary (FKNMS)	310.58%
ONMS All sites, except FKNMS	269.34%

ONMS component	FY 2009 indirect rate (percent)
ONMS Florida Keys National Marine Sanctuary (FKNMS)	397.63%
ONMS All sites, except FKNMS	336.50%
Natural Resources Section, Office of General Counsel ONMS cases only	74.01%

The FY 2008 and 2009 rates identified in this policy will be applied to all damage assessment and restoration case costs incurred between October 1, 2008 and present, using the Direct Labor Cost base allocation methodology. For cases that have settled and for costs claims paid prior to the effective date of the fiscal year in question, the ONMS will not re-open any resolved matters for the purpose of applying the rates in this policy. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, costs will be recalculated using the rates in this policy. The ONMS will use the FY 2009 rates for damage assessment and restoration case costs incurred from October 1, 2008 through future fiscal years until year-specific rates are developed.

Date: January 31, 2012

Daniel Basta
 Director
 Office of National Marine Sanctuaries

[FR Doc. 2012-2953 Filed 02/13/2012 at 8:45 am; Publication Date: 02/14/2012]