

19-6-419 Costs covered by the fund -- Costs paid by owner or operator -- Payments to third parties -- Apportionment of costs.

- (1) If all requirements of this part have been met and a release occurs from a tank that is covered by the fund, the costs per release are covered as provided under this section.
- (2) For releases reported before May 11, 2010, the responsible party shall pay:
 - (a) the first \$10,000 of costs; and
 - (b)
 - (i) all costs over \$1,000,000, if the release was from a tank:
 - (A) located at a facility engaged in petroleum production, refining, or marketing; or
 - (B) with an average monthly facility throughput of more than 10,000 gallons; and
 - (ii) all costs over \$500,000, if the release was from a tank:
 - (A) not located at a facility engaged in petroleum production, refining, or marketing; and
 - (B) with an average monthly facility throughput of 10,000 gallons or less.
- (3) For releases reported before May 11, 2010, if money is available in the fund and the responsible party has paid costs of \$10,000, the director shall pay costs from the fund in an amount not to exceed:
 - (a) \$990,000 if the release was from a tank:
 - (i) located at a facility engaged in petroleum production, refining, or marketing; or
 - (ii) with an average monthly facility throughput of more than 10,000 gallons; and
 - (b) \$490,000 if the release was from a tank:
 - (i) not located at a facility engaged in petroleum production, refining, or marketing; and
 - (ii) with an average monthly facility throughput of 10,000 gallons or less.
- (4) For a release reported on or after May 11, 2010, the responsible party shall pay:
 - (a) the first \$10,000 of costs; and
 - (b)
 - (i) all costs over \$2,000,000, if the release was from a tank:
 - (A) located at a facility engaged in petroleum production, refining, or marketing; or
 - (B) with an average monthly facility throughput of more than 10,000 gallons; and
 - (ii) all costs over \$1,000,000, if the release was from a tank:
 - (A) not located at a facility engaged in petroleum production, refining, or marketing; and
 - (B) with an average monthly facility throughput of 10,000 gallons or less.
- (5) For a release reported on or after May 11, 2010, if money is available in the fund and the responsible party has paid costs of \$10,000, the director shall pay costs from the fund in an amount not to exceed:
 - (a) \$1,990,000 if the release was from a tank:
 - (i) located at a facility engaged in petroleum production, refining, or marketing; or
 - (ii) with an average monthly facility throughput of more than 10,000 gallons; and
 - (b) \$990,000 if the release was from a tank:
 - (i) not located at a facility engaged in petroleum production, refining, or marketing; and
 - (ii) with an average monthly facility throughput of 10,000 gallons or less.
- (6) The director may pay fund money to a responsible party up to the following amounts in a fiscal year:
 - (a) \$1,990,000 to a responsible party owning or operating less than 100 petroleum storage tanks; or
 - (b) \$3,990,000 to a responsible party owning or operating 100 or more petroleum storage tanks.
- (7)
 - (a) In authorizing payments for costs from the fund, the director shall apportion money:
 - (i) first, to the following type of expenses incurred by the state:

- (A) legal;
- (B) adjusting; and
- (C) actuarial;
- (ii) second, to costs incurred for:
 - (A) investigation;
 - (B) abatement action; and
 - (C) corrective action; and
- (iii) third, to payment of:
 - (A) judgments;
 - (B) awards; and
 - (C) settlements to third parties for bodily injury or property damage.
- (b) The board shall make rules governing the apportionment of costs among third party claimants.

Amended by Chapter 360, 2012 General Session