

**Effective 7/1/2015**

**19-6-420 Releases -- Abatement actions -- Corrective actions.**

- (1) If the director determines that a release from a petroleum storage tank has occurred, the director shall:
  - (a) identify and name as many of the responsible parties as reasonably possible; and
  - (b) determine which responsible parties, if any, are covered by the fund regarding the release in question.
- (2) Regardless of whether the tank generating the release is covered by the fund:
  - (a) the director may order the owner or operator to take abatement, or investigative or corrective action, including the submission of a corrective action plan; and
  - (b) if the owner or operator fails to comply with the action ordered by the director under Subsection (2)(a), the director may take one or more of the following actions:
    - (i) subject to the conditions in this part, use money from the fund, if the tank involved is covered by the fund, state cleanup appropriation, or the Petroleum Storage Tank Cleanup Fund created under Section 19-6-405.7 to perform investigative, abatement, or corrective action;
    - (ii) commence an enforcement proceeding;
    - (iii) enter into agreements or issue orders as allowed by Section 19-6-424.5;
    - (iv) recover costs from responsible parties equal to their proportionate share of liability as determined by Section 19-6-424.5; or
    - (v) where the owner or operator is the responsible party, revoke the responsible party's certificate of compliance, as described in Section 19-6-414.
- (3)
  - (a) Subject to the limitations established in Section 19-6-419, the director shall provide money from the fund for abatement action for a release generated by a tank covered by the fund if:
    - (i) the owner or operator takes the abatement action ordered by the director; and
    - (ii) the director approves the abatement action.
  - (b) If a release presents the possibility of imminent and substantial danger to the public health or the environment, the owner or operator may take immediate abatement action and petition the director for reimbursement from the fund for the costs of the abatement action. If the owner or operator can demonstrate to the satisfaction of the director that the abatement action was reasonable and timely in light of circumstances, the director shall reimburse the petitioner for costs associated with immediate abatement action, subject to the limitations established in Section 19-6-419.
  - (c) The owner or operator shall notify the director within 24 hours of the abatement action taken.
- (4)
  - (a) If the director determines corrective action is necessary, the director shall order the owner or operator to submit a corrective action plan to address the release.
  - (b) If the owner or operator submits a corrective action plan, the director shall review the corrective action plan and approve or disapprove the plan.
  - (c) In reviewing the corrective action plan, the director shall consider the following:
    - (i) the threat to public health;
    - (ii) the threat to the environment; and
    - (iii) the cost-effectiveness of alternative corrective actions.
- (5) If the director approves the corrective action plan or develops the director's own corrective action plan, the director shall:
  - (a) approve the estimated cost of implementing the corrective action plan;
  - (b) order the owner or operator to implement the corrective action plan;
  - (c)

- (i) if the release is covered by the fund, determine the amount of fund money to be allocated to an owner or operator to implement a corrective action plan; and
  - (ii) subject to the limitations established in Section 19-6-419, provide money from the fund to the owner or operator to implement the corrective action plan.
- (6)
- (a) The director may not distribute any money from the fund for corrective action until the owner or operator obtains the director's approval of the corrective action plan.
  - (b) An owner or operator who begins corrective action without first obtaining approval from the director and who is covered by the fund may be reimbursed for the costs of the corrective action, subject to the limitations established in Section 19-6-419, if:
    - (i) the owner or operator submits the corrective action plan to the director within seven days after beginning corrective action; and
    - (ii) the director approves the corrective action plan.
- (7) If the director disapproves the plan, the director shall solicit a new corrective action plan from the owner or operator.
- (8) If the director disapproves the second corrective action plan, or if the owner or operator fails to submit a second plan within a reasonable time, the director may:
- (a) develop an alternative corrective action plan; and
  - (b) act as authorized under Subsections (2) and (5).
- (9)
- (a) When notified that the corrective action plan has been implemented, the director shall inspect the location of the release to determine whether or not the corrective action has been properly performed and completed.
  - (b) If the director determines the corrective action has not been properly performed or completed, the director may issue an order requiring the owner or operator to complete the corrective action within the time specified in the order.
- (10)
- (a) For releases not covered by the fund, the director may recover from the responsible party expenses incurred by the division for managing and overseeing the abatement, and investigation or corrective action of the release. These expenses shall be:
    - (i) billed quarterly per release;
    - (ii) due within 30 days of billing;
    - (iii) deposited with the division as dedicated credits;
    - (iv) used by the division for the administration of the underground storage tank program outlined in this part; and
    - (v) billed per hourly rates as established under Section 63J-1-504.
  - (b) If the responsible party fails to pay expenses under Subsection 10(a), the director may:
    - (i) revoke the responsible party's certificate of compliance, as described in Section 19-6-414, if the responsible party is also the owner or operator; and
    - (ii) pursue an action to collect expenses in Subsection 10(a), including the costs of collection.

Amended by Chapter 227, 2014 General Session