

**65-34,117. Environmental assurance fee; disposition of proceeds.** (a) There is hereby established on and after July 1, 1992, an environmental assurance fee of \$.01 on each gallon of petroleum product, other than aviation fuel, manufactured in or imported into this state. The environmental assurance fee shall be paid by the manufacturer, importer or distributor first selling, offering for sale, using or delivering petroleum products within this state. The environmental assurance fee shall be paid to the department of revenue at the same time and in the same manner as the inspection fee established pursuant to K.S.A. 55-426, and amendments thereto, is paid. The secretary of revenue shall remit the environmental assurance fees paid hereunder to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the aboveground fund, the underground fund, the UST redevelopment fund or the environmental stewardship fund, as provided by subsection (b). Exchanges of petroleum products on a gallon-for-gallon basis within a terminal and petroleum product which is subsequently exported from this state shall be exempt from this fee.

(b) Moneys collected from the environmental assurance fee imposed by this section shall be credited as follows:

(1) At any time when the unobligated principal balance of the underground fund is equal to \$2,000,000 or less, the moneys shall be credited to the underground fund until the unobligated principal balance of the underground fund equals or exceeds \$5,000,000.

(2) At any time when the unobligated principal balance of the aboveground fund is equal to \$500,000 or less and the moneys are not required to be credited to the underground fund under subsection (b)(1), such moneys shall be credited to the aboveground fund until the unobligated principal balance of the aboveground fund equals or exceeds \$1,500,000 or until subsection (b)(1) requires moneys to be credited to the underground fund, whichever occurs first. At any time when the unobligated principal balance of the aboveground fund exceeds \$1,500,000, the excess shall be transferred to the underground fund.

(3) At any time when the moneys cease to be credited to the aboveground fund before the unobligated principal balance of the aboveground fund equals or exceeds \$1,500,000, such moneys shall again be credited to the aboveground fund when the unobligated principal balance of the underground fund equals or exceeds \$5,000,000. Such moneys shall continue to be credited to the aboveground fund until the unobligated principal balance of the aboveground fund equals or exceeds \$1,500,000 or until subsection (b)(1) requires moneys to be credited to the underground fund, whichever occurs first.

(4) At any time when subsections (b)(1), (b)(2) and (b)(3) do not require moneys to be credited to either the underground fund or the aboveground fund, the excess shall be transferred to the UST redevelopment fund. If the unobligated principal balance of the UST redevelopment fund is equal to \$2,000,000 or less, the moneys shall be credited to the UST redevelopment fund until the unobligated principal balance of the UST redevelopment fund equals or exceeds \$5,000,000 or until subsections (b)(1), (b)(2) or (b)(3) require money.

(5) At any time when subsections (b)(1), (b)(2), (b)(3) and (b)(4) do not require moneys to be credited to either the underground fund, the aboveground fund or the UST redevelopment fund, the money shall be credited to the environmental stewardship fund. If the unobligated principal balance of the environmental stewardship fund is equal to \$2,000,000 or less, the money shall be credited to the environmental stewardship fund until the unobligated principal balance of the environmental stewardship fund equals or exceeds \$5,000,000 or until subsections (b)(1), (b)(2), (b)(3) or (b)(4) require money.

(c) At any time when subsections (b)(1), (b)(2), (b)(3), (b)(4) and (b)(5) do not require moneys to be credited to either the underground fund, the aboveground fund, the UST redevelopment fund or the environmental stewardship fund, no environmental assurance fees shall be levied unless and until such time as the unobligated principal balance in the underground fund is less than or equal to \$2,000,000 or the unobligated principal balance in the aboveground fund is less than or equal to \$500,000 or the unobligated principal balance in the UST redevelopment fund or environmental stewardship fund is less than or equal to \$2,000,000, in which case the collection of the environmental assurance fee will resume within 90 days following the end of the month in which such unobligated balance occurs. If no environmental assurance fees are being levied, the director of accounts and reports shall notify the secretary of revenue whenever the unobligated principal balance in the underground fund is \$2,000,000 or the unobligated principal balance in the aboveground fund is \$500,000 or the unobligated principal balance in the UST redevelopment fund or environmental stewardship fund is \$2,000,000, and the secretary of revenue shall then give notice to each person subject to the environmental assurance fee as to the imposition of the fee and the duration thereof.

The director of accounts and reports shall cause to be published each month, in the second issue of the Kansas register published in such month, the amount of the unobligated principal balances in the underground fund and the aboveground fund on the last day of the preceding calendar month.

(d) Every manufacturer, importer or distributor of any petroleum product liable for the payment of environmental assurance fees as provided in this act, shall report in full and detail before the 25th day of every month to the secretary of revenue, on forms prepared and furnished by the secretary of revenue, and at the time of forwarding such report, shall compute and pay to the secretary of revenue the amount of fees due on all petroleum products subject to such fee during the preceding month.

(e) All fees imposed under the provisions of this section and not paid on or before the 25th day of the month succeeding the calendar month in which such petroleum products were subject to such fee shall be deemed delinquent and shall bear interest at the rate of 1% per month, or fraction thereof, from such due date until paid. In addition thereto, there is hereby imposed upon all amounts of such fees remaining due and unpaid after such due date a penalty in the amount of 5% thereof. Such penalty shall be added to and collected as a part of such fees by the secretary of revenue.

(f) The secretary of revenue is hereby authorized to adopt such rules and regulations as may be necessary to carry out the responsibilities of the secretary of revenue under this section.

**History:** L. 1989, ch. 186, § 18; L. 1990, ch. 229, § 2; L. 1992, ch. 311, § 13; L. 1996, ch. 61, § 1; L. 2001, ch. 5, § 249; L. 2006, ch. 50, § 6; L. 2012, ch. 22, § 3; L. 2015, ch. 26, § 3; July 1.