

2021 Kansas Statutes

65-34,130. **Retroactive reimbursement from aboveground fund.** (a) An owner or operator shall be entitled to reimbursement from the aboveground fund for the costs of corrective action taken before July 1, 1992, in response to a release from an aboveground petroleum storage tank which was discovered on or after December 22, 1988, and for which written approval of any corrective action taken prior to July 1, 1992, has been granted by the secretary, subject to the following:

- (1) Such owner or operator shall be entitled to reimbursement pursuant to this section only to the extent that such owner or operator would be entitled to reimbursement if the release had been discovered on or after the effective date of this act, including application of all applicable deductibles and conditions of reimbursement imposed by K.S.A. 65-34,119 and amendments thereto;
- (2) such owner or operator shall be entitled to reimbursement pursuant to this section only if the owner or operator submits to the secretary proof, acceptable to the secretary, that such owner or operator is not engaged in production or refining of petroleum products;
- (3) the aggregate of all reimbursement paid pursuant to this section shall not exceed \$3,200,000;
- (4) the aggregate of all reimbursement paid to an owner or operator pursuant to this section shall not exceed \$100,000, after all applicable deductibles; and
- (5) any claim for reimbursement pursuant to this section must be submitted to the secretary not later than December 31, 1992;

(b) If the aggregate of all reimbursement to which owners and operators would be otherwise entitled pursuant to this section exceeds \$3,200,000, reimbursement shall be paid from the aboveground fund as follows:

- (1) Any owner or operator who owns or operates not more than 12 aboveground petroleum storage tanks and whose aggregate claims for reimbursement pursuant to this section do not exceed \$20,000, before applicable deductibles, shall receive full payment of the reimbursement to which such owner or operator is entitled unless the aggregate of all reimbursement to which all such owners and operators are entitled exceeds \$3,200,000. In that case, such owners and operators shall be paid on a pro rata basis and no payments shall be paid to other owners or operators.
- (2) If the aggregate of all reimbursement paid pursuant to subsection (b)(1) is less than \$3,200,000, owners and operators other than those described in subsection (b)(1) shall receive full payment of the reimbursement to which they are entitled unless the aggregate of all reimbursement to which all such owners and operators are entitled, when added to the amount paid pursuant to subsection (b)(1), exceeds \$3,200,000. In that case, such owners and operators shall be paid on a pro rata basis.

(c) All reimbursement payable pursuant to this section shall be paid by the secretary prior to May 1, 1993.

(d) Subject to the provisions of K.S.A. 65-34,119 and amendments thereto, an owner or operator shall be entitled to reimbursement from the aboveground fund for the costs of corrective action taken on or after July 1, 1992, in response to a release from an aboveground petroleum storage tank which was discovered on or after December 22, 1988, if such owner or operator is entitled to reimbursement under subsection (a) for corrective action taken before July 1, 1992, with respect to such release.

(e) This section shall be part of and supplemental to the Kansas storage tank act.

History: L. 1992, ch. 311, § 16; July 1.