

65-34,120. Liability of state and its officers and employees limited; fund liability limits. (a) Nothing in this act shall establish or create any liability or responsibility on the part of the secretary, the department or its agents or employees, or the state of Kansas to pay any corrective action costs from any source other than the respective fund created by this act.

(b) In no event shall the underground fund be liable for the payment of corrective action costs in an amount in excess of the following, less any applicable deductible amounts of the owner or operator:

(1) For costs incurred in response to any one release from an underground petroleum storage tank, \$1,000,000;

(2) subject to the provisions of subsection (a)(4), for an owner or operator of 100 or fewer underground petroleum storage tanks, an annual aggregate of \$1,000,000; and

(3) subject to the provisions of subsection (a)(4), for an owner or operator of more than 100 underground petroleum storage tanks, an annual aggregate of \$2,000,000.

(c) In no event shall the aboveground fund be liable for the payment of corrective action costs in an amount in excess of the following, less the deductible amounts of the owner or operator:

(1) For costs incurred in response to any one release from an aboveground petroleum storage tank, \$1,000,000;

(2) for an owner or operator of 100 or fewer aboveground petroleum storage tanks, an annual aggregate of \$1,000,000; and

(3) for an owner or operator of more than 100 aboveground petroleum storage tanks, an annual aggregate of \$2,000,000.

(d) This act is intended to assist an owner or operator only to the extent provided for in this act, and it is in no way intended to relieve the owner or operator of any liability that cannot be satisfied by the provisions of this act.

(e) Neither the secretary nor the state of Kansas shall have any liability or responsibility to make any payments for corrective action if the respective fund created herein is insufficient to do so. In the event the respective fund is insufficient to make the payments at the time the claim is filed, such claims shall be paid in the order of filing at such time as moneys are paid into the respective fund.

(f) No common-law liability, and no statutory liability which is provided in a statute other than in this act, for damages resulting from a release from a petroleum storage tank is affected by this act. The authority, power and remedies provided in this act are in addition to any authority, power or remedy provided in any statute other than a section of this act or provided at common law.

(g) If a person conducts a corrective action activity in response to a release from a petroleum storage tank, whether or not the person files a claim against the respective fund under this act, the claim and corrective action activity conducted are not evidence of liability or an admission of liability for any potential or actual environmental pollution or third-party claim.

History: L. 1989, ch. 186, § 21; L. 1990, ch. 229, § 6; L. 1992, ch. 311, § 18; L. 1996, ch. 125, § 2; July 1.