

# WEST VIRGINIA CODE: §22-17-21

## **§22-17-21. Leaking underground storage tank response fund.**

(a) Each underground petroleum storage tank owner within this state shall pay an annual fee, if assessed by the director, to establish a fund to assure adequate response to leaking underground petroleum storage tanks. The fees assessed pursuant to this section shall not exceed \$25 per tank per year. The proceeds of such assessment shall be paid into the State Treasury into a special fund designated "the leaking underground storage tank response fund", which is hereby continued.

(b) Each owner of an underground petroleum storage tank subject to a fee assessment under subsection (a) of this section shall pay a fee based on the number of underground petroleum storage tanks he or she owns. The director shall vary the fees annually to a level necessary to produce a fund of at least \$750,000 at the beginning of each calendar year taking into account those amounts deposited in the fund pursuant to subsection (c), section twenty of this article. In no event shall the fees assessed in this section be set to produce revenues exceeding \$250,000 in any year.

(c) When the unobligated balance of the leaking underground storage tank response fund exceeds \$1 million at the end of a calendar year, fee assessment under this section shall cease until such time as the unobligated balance at the end of any year is less than \$750,000.

(d) At the end of each fiscal year, any unexpended balance including accrued interest of such collected fees shall not be transferred to the General Revenue Fund but shall remain in the fund.

(e) The director is authorized to enter into agreements and contracts and to expend the moneys in the fund for the following purposes:

(1) Responding to underground petroleum storage tank releases when, based on readily available information, the director determines that immediate action may prevent or mitigate significant risk of harm to human health, safety or the environment from regulated substances in situations for which no federal funds are immediately available for such response, cleanup or containment: Provided, That the director shall apply for and diligently pursue available federal funds for such releases at the earliest possible time.

(2) Reimbursing any person for reasonable cleanup costs incurred with the authorization of the director in responding to an underground petroleum storage tank release.

(3) Reimbursing any person for reasonable costs incurred with the authorization of the director responding to perceived, potential or threatened releases from underground petroleum storage tanks where response activities do not indicate that any release has

occurred.

(4) Financing the nonfederal share of the cleanup and site reclamation activities pursuant to Subtitle I of the federal Resource Conservation and Recovery Act, as amended, as well as future operation and maintenance costs for these sites: Provided, That no portion of the moneys in the leaking underground storage tank response fund shall be used for defraying the costs of administering this article.

(5) Financing the nonfederal share of costs incurred in compensating third parties, including payment of judgments, for bodily injury and property damage, caused by release of petroleum into the environment from an underground storage tank.