

WEST VIRGINIA CODE: §22-30-13

§22-30-13. Protect Our Water Fund.

(a) Each owner or operator of a regulated aboveground storage tank shall pay an annual fee to assure adequate response to releases from aboveground storage tanks. The amount of fees assessed pursuant to this section shall be set forth by rule. The proceeds of the assessment shall be paid into a special revenue account, hereby created within the State Treasury, designated the "Protect Our Water Fund." The fund shall be administered by the secretary. Expenditures from the fund shall be solely to respond to releases from aboveground storage tanks.

(b) Each owner or operator of an regulated aboveground storage tank subject to a fee assessment under subsection (a) of this section shall pay a fee based on the number, contents and location of regulated aboveground storage tanks he or she owns or operates, as applicable. The secretary shall vary the fees annually to a level necessary to produce a fund of no more than \$1 million after three years from the effective date of this article, and to maintain an aggregate fund of \$1 million at the beginning of each calendar year thereafter.

(c) At the end of each fiscal year, any unexpended balance, including accrued interest, on deposit in the Protect Our Water Fund shall not be transferred to the General Revenue fund, but shall remain in the Protect Our Water Fund for expenditure pursuant to this section.

(d) The secretary may enter into agreements and contracts and to expend the moneys in the fund for the following purposes:

(1) Responding to aboveground storage tank releases when, based on readily available information, the secretary determines that immediate action is necessary to prevent or mitigate significant risk of harm to human health, safety, water resources or the environment from contamination caused by a release of fluid from aboveground storage tanks in situations for which no federal funds are immediately available for the response, cleanup or containment: Provided, That the secretary shall apply for and diligently pursue all available federal funds at the earliest possible time;

(2) Reimbursing any nonresponsible parties for reasonable cleanup costs incurred with the authorization of the secretary in responding to an aboveground storage tank release; or

(3) Reimbursing any nonresponsible parties for reasonable costs incurred with the authorization of the secretary responding to perceived, potential or threatened releases from aboveground storage tanks.

(e) The secretary, through a cooperative agreement with another state regulatory agency, in this or another state, may use the fund to compensate the cooperating agency for expenses the cooperating agency incurs in carrying out corrective actions pursuant to this article.