

NEBRASKA ADMINISTRATIVE CODE
NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Title 200 - Rules And Regulations For Petroleum Release Remedial Action
Reimbursement Fund

Chapter 4 - Limitations on Reimbursements

001 Responsibility of Responsible Person. Responsible persons shall make application for reimbursements for remedial actions under chapter 2 of these regulations. No responsible person may avoid responsibility for a release or a third-party claim by means of a conveyance of any right, title, or interest in real property or by any indemnification, hold-harmless, or similar agreements. This section shall not be construed to:

001.01 Prohibit a responsible person from entering into an agreement by which the person is insured or is a member of a risk-retention group and is thereby indemnified for part or all of the liability;

001.02 Prohibit the enforcement of an insurance, hold-harmless, or indemnification agreement; or

001.03 Bar a cause of action brought by a responsible person or by an insurer or guarantor, whether by right of subrogation or otherwise.

002 The total of the claims paid under the State Miscellaneous Claims Act pursuant to Chapter 6, 003, and the reimbursement for third party claims shall not exceed one million dollars per occurrence.

003 Costs of Remedial Action.

003.01 The amount of the reimbursement shall not exceed nine hundred seventy five thousand dollars (\$975,000) per occurrence, except as provided in 003.02 of this chapter.

003.02 If the department determines that the responsible person sold no less than two thousand (2,000) gallons of petroleum and no more than two hundred fifty thousand (250,000) gallons of petroleum during the calendar year immediately preceding the first report of the release, or stored less than ten thousand (10,000) gallons of petroleum in the calendar year immediately preceding the first report of the release, the amount of the reimbursement for the costs of remedial action shall not exceed nine hundred eighty-five thousand dollars (\$985,000) per occurrence.

004 Annual Maximum. In no event shall reimbursements or payments from the fund exceed the annual aggregate of:

004.01 One million nine hundred seventy-five thousand dollars (\$1,975,000) per responsible person for reimbursements or payments made under 002 and 003.01 of this chapter; or

004.02 One million nine hundred eighty-five thousand dollars (\$1,985,000) per responsible person for reimbursements or payments made under 002 and 003.02 of this chapter.

005 Fund Insufficient. If the fund is insufficient for any reason to reimburse the amounts set forth in these regulations, the maximum amount that the fund shall be required to reimburse is the amount in the fund.

006 Spending Authority. Payment of reimbursements or other expenditures from the fund may not exceed the spending authority given to the department by the legislature.

Enabling Legislation: Neb. Rev. Stat. §66-1518, 66-1523 (Supp. 1999)

Legal Citation: Title 200, Ch. 4, Nebraska Department of Environmental Quality