

PETROLEUM RELEASE COMPENSATION FUND



South Dakota Legislative Research Council

Frequently Asked Questions

The purpose of this FAQ sheet is to provide information to the Joint Committee on Appropriations regarding Informational Budgets in the South Dakota budgetary system. The information was compiled by the Legislative Research Council with assistance from the Department of Legislative Audit and the Government Operations and Audit Committee.

When and why was this fund created?

The Petroleum Release Compensation Fund (PRCF) was created by the 1988 Legislature to prevent and clean up petroleum releases. The PRCF is a state-operated program that can financially assist petroleum tank owners with the cleanup of petroleum releases. The PRCF is administered by the Department of Revenue and Regulation and the day-to-day duties have been delegated to an executive director. The Secretary is advised by a 5 member board appointed by the Governor as follows: one with experience in insurance or claims adjusting; one with experience in banking or a finance related business; one engineer or one person with experience in a technical field; and two persons from the petroleum marketing industry. Not all members of the board may be of the same political party. The term of an appointment shall be five years. Two members shall originally be appointed for five years, two persons for four years and one person for three years.

Where does the revenue come from?

The primary source of revenue comes from a petroleum release compensation and tank inspection fee (34A-13-20). The amount of the fee is \$0.20 per gallon of petroleum. The fee is only paid once for a particular quantity of produce, but the costs are passed on to the consumer in most cases. Portions of the fee are deposited in the Ethanol Fuel Fund (50%), Capital Construction Fund (39.35%), and the Petroleum Release Compensation Fund (10.65%). The tank inspection fee is collected by the Department of Revenue and Regulation under a contract with the PRCF.

Other sources of revenue include: money recovered for administrative expenses and money paid under an agreement, stipulation, or settlement; interest due to the fund; gifts, grants, reimbursements, or any appropriations for the purpose of the fund; and money or assets received in connection with any loan from the fund.

Who is eligible for financial assistance from the PRCF?

A responsible person or a person who has custody of a responsible person's property is eligible to apply for financial assistance from the PRCF. The term "responsible person" refers to the person who owned or operated a tank or tank system during or after a release. A person who is eligible for financial assistance from the PRCF is called a "covered party". Most tank owners are automatically covered. Pre-registration with the PRCF is not required. The covered party can submit an application to the PRCF when they either suspect or have documented a petroleum release. Necessary and reasonable costs associated with the cleanup of a petroleum spill can be considered for reimbursement. This includes environmental consulting expenses for site assessments as well as actual cleanup expenses. Costs for upgrading existing equipment or for making improvements to the property are specifically excluded from coverage. There is a \$10,000 deductible for each occurrence.

What spending restrictions exist on the fund?

Money in the Petroleum Release Compensation Fund is continuously appropriated. (34A-13-32)

Money in the fund may only be expended or obligated: (34A-13-27)

- (1) To administer the petroleum release compensation program established in this chapter;
- (2) For any administrative costs and costs of corrective action taken by the fund, including investigations, legal actions, consulting costs, and other necessary costs;
- (3) For any costs of recovering any expenses associated with corrective actions;
- (4) For training, testing, and certification of those who perform services to be reimbursed under this chapter;
- (5) For any costs paid to any state agency for services;
- (6) For research and studies designed to reduce releases and improve petroleum industry methods for storage and to develop information and knowledge to aid in cleanup;
- (7) To carry out inspections of tanks and to certify inspection persons who may perform approved inspections of tanks;
- (8) To carry out the financing responsibilities of the petroleum environmental compliance authority as provided in chapter 34A-14 and in this chapter. However, no more than two million dollars of the fund assets at any time may be used in financing activities;
- (9) To purchase insurance for the purpose of limiting certain risks associated with providing fund coverage as deemed appropriate by the secretary of transportation;
- (10) For any service provider unless the director has determined that a conflict of interest exists between the consultant and the contractor that could affect the integrity of the cleanup activities;
- (11) For rule making; and
- (12) For training of board members and staff employed by the secretary of transportation.

Has the original purpose of the fund changed?

The original purpose of the fund was to reimburse owners and operators of petroleum facilities for some of the costs of cleaning up petroleum spills. Due to federal regulations, underground petroleum or waste oil tanks that were installed prior to 1987 were required by federal law to be upgraded by 1998 with spill, overfill and corrosion protection or be closed or removed. As a result, the 2000 Legislature passed SB 197 which created an abandoned tank removal program (SDCL 34A-13-49 to 34A-13-54) to provide for the removal of certain abandoned underground storage tanks and cleanup of the site if the owner meets certain conditions. The law also authorized the petroleum release compensation fund to pay for the removal and any necessary environmental cleanup. The Department of Environment and Natural Resources is responsible for the tank removal and corrective actions subject to the abandoned tank removal program. The department may contract directly with consultants, contractors, other service providers, state agencies, subdivisions of government, counties, cities, townships, and tribes to carry out the provisions of the program. After receiving itemized documentation of all actual costs from the department, the director of the petroleum release compensation fund shall make payment within thirty days of receipt.

Is the fund on the state accounting system? What is the timing of the Fiscal Year?

The fund is on the state accounting system. The fiscal year runs the same as the State Fiscal Year which is from July 1 to June 30.

When was the last audit completed on this fund?

The South Dakota Department of Legislative Audit has audited the financial statements of the PRCF as of June 30, 2006. The PRCF has recently been reviewed by the Department of Revenue and Regulation Agency Review Committee and the Government Operations & Audit Committee during the 2007 interim. The fund is also reviewed annually by the Joint Appropriation's Committee during the budget hearing process for the Department of Revenue and Regulation.

2007 Government Operations and Audit Committee "Blue Book"

Prepared by the Department of Legislative Audit

Other Fund Information

Department of Revenue and Regulation
State Accounting System - Other Fund Balances
Company 3036 - Petroleum Release Compensation Fund

	FY2004	FY2005	FY2006	FY2007
1 Cash Pooled with State Treasurer	5,236,632.65	5,305,217.15	5,710,699.17	5,723,679.98
2 Total Assets	5,236,632.65	5,305,217.15	5,710,699.17	5,723,679.98
3				
4 Accounts Payable	-	-	-	-
5 Total Liabilities	-	-	-	-
6				
7 Reserve for Encumbrances	2,865.39	104.36	3,465.00	-
8 Unreserved Fund Balance	5,233,767.26	5,305,112.79	5,707,234.17	5,723,679.98
9 Total Fund Equity	5,236,632.65	5,305,217.15	5,710,699.17	5,723,679.98
10 Total Liabilities and Fund Equity	5,236,632.65	5,305,217.15	5,710,699.17	5,723,679.98
11				
12				
13 Taxes	1,494,758.37	1,715,093.90	1,646,000.07	1,582,385.73
14 Use of Money and Property	367,231.99	192,282.07	160,976.81	170,787.13
15 Other Revenue	25,560.98	445,000.00	50,000.00	8,521.50
16 Total Operating Revenue	1,887,551.34	2,352,375.97	1,856,976.88	1,761,694.36
17				
18 Personal Services and Benefits	435,751.09	391,937.64	280,217.11	307,313.77
19 Travel	21,177.17	21,580.35	16,681.73	12,313.07
20 Contractual Services	139,799.89	190,200.73	193,471.87	218,584.11
21 Supplies and Materials	10,593.23	7,212.48	7,762.67	5,282.69
22 Grants and Subsidies	1,457,722.52	1,666,558.96	952,354.56	1,197,665.61
23 Capital Outlay	4,816.55	6,301.31	1,006.92	7,554.30
24 Total Operating Expenditures/Expenses	2,069,860.45	2,283,791.47	1,451,494.86	1,748,713.55
25				
26 Operating Transfers In	-	-	-	-
27 Operating Transfers Out	(15,000,000.00)	-	-	-
28 Net Transfers In (Out)	(15,000,000.00)	-	-	-
29				
30 Net Change	(15,182,309.11)	68,584.50	405,482.02	12,980.81
31				
32 Beginning Fund Equity	20,418,941.76	5,236,632.65	5,305,217.15	5,710,699.17
33 Ending Equity	5,236,632.65	5,305,217.15	5,710,699.17	5,723,679.98

Company: 3036

Company Name: Petroleum Release Compensation

Fund Name: Petroleum Release Compensation Fund

Fund Type: Special Revenue

Purpose: SDCL 34A-13-18 created the Petroleum Release Compensation Fund. Source: Portion of petroleum release compensation and tank inspection fee authorized by 34A-13- 20, interest income and any other monies received. Use: Costs of operating program (34A-13-27).

Budget Information: Part of the fund is included in the General Appropriations Bill and part is included as an informational budget.

Condition Statement Prepared by the Department of Revenue and Regulation on 10/05/07

**DEPARTMENT OF REVENUE AND REGULATION
PETROLEUM RELEASE COMPENSATION FUND CONDITION STATEMENT**

	ACTUAL FY2006	ACTUAL FY2007	BUDGETED FY2008
TOTAL REVENUE	\$1,856,977	\$1,761,695	\$1,720,000
TOTAL EXPENDITURES	\$1,451,495	\$1,748,714	\$2,570,184
NET (Revenues less Expenditures)	\$405,482	\$12,981	(\$850,184)
Operating Transfer Out	\$0	\$0	(\$1,000,000)
BEGINNING CASH BALANCE	\$5,305,217	\$5,710,699	\$5,723,680
ENDING BALANCE	\$5,710,699	\$5,723,680	\$3,873,496