Arkansas Petroleum Storage Tank Trust Fund/2026 Guidelines for Reimbursement of Corrective Action Costs: Arkansas Department of Energy and Environment - Division of Environmental Quality Announces Updated Document

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The Arkansas Department of Energy and Environment - Division of Environmental Quality ("ADEQ") issued an updated document to implement the Arkansas Petroleum Storage Tank Trust Fund ("Trust Fund") titled:

ARKANSAS PETROLEUM STORAGE TANK TRUST FUND: 2026 GUIDELINES FOR REIMBURSEMENT OF CORRECTIVE ACTION COSTS ("2026 Guidelines").

ADEQ states that it has been working with stakeholder work groups to provide this updated document and it will be presented during the September 30th Arkansas Petroleum Storage Tank Trust Fund Advisory Committee meeting.

The Trust Fund is an Arkansas statutory mechanism that has been used by both underground storage tank ("UST") and above-ground storage tank owner/operators for over 40 years to address petroleum leaks and spills (i.e., releases). See Ark. Code § 8-7-901 et seq.

The Trust Fund was a response to the United States Congress' mandate in the late 1980's that the U.S. Environmental Protection Agency ("EPA") promulgate regulations requiring that USTs meet various registration, installation, design, leak detection, recordkeeping, and closure requirements. Of particular relevance, EPA also promulgated regulations requiring that UST owners and operators meet certain financial assurance requirements.

The purpose of the financial assurance regulations was to ensure that funds would be available for corrective action for petroleum releases and compensation for third-party property damage and bodily injury claims. The UST owner/operators were required to provide some type of financial instrument, guarantee, financial worth test, or access to a state trust fund to provide the required financial assurance for corrective action and third-party claims.

Many states (including Arkansas) decided to play a role in the regulation of USTs after the promulgation of federal regulations. Further, the Arkansas General Assembly established the Trust Fund as a mechanism to enable UST owners and operators to meet certain eligibility requirements to enable UST owners and operators to meet their federal financial assurance requirements.

There was significant concern whether small owners and operators of facilities with USTs would be able to comply with the strict federal requirements without access to a Trust Fund. In other words, many owners and operators of USTs would probably not have been able to meet the federal requirements of financial responsibility and would therefore close.

The Trust Fund is administered by ADEQ. Further, the Arkansas General Assembly created an Arkansas Petroleum Storage Tank Advisory Committee to work with ADEQ on various UST Trust Fund issues.

Regulations promulgated by ADEQ provide various requirements for owners and operators seeking reimbursement for either corrective action and/or third-party claims. In the case of corrective action costs submitted for reimbursement, the rules require that they meet a 3-prong test of:

- They are reasonable.
- They are allowable.
- They are necessary.

Besides reiterating the eligibility requirements and Trust Fund coverage limits/deductible, the 2026 Updated Guidelines provides specifics as to what are reasonable, allowable, and necessary costs. Examples of specific items that are covered include:

- Hotel and meals.
- Mileage.
- Tools of the trade.
- Field equipment rental.
- Field supplies.
- Rolling equipment.
- Emergency response.
- Overtime.
- Work plan preparation.
- Utility repair/replacement.

The 2026 Updated Guidelines also address:

- Markup of costs.
- Change orders.
- Reimbursement application.
- Conflict of interest.

Appendices include:

- Remediation Equipment Purchase and Rental.
- Project Financial Management Standards.

A copy of the 2026 Updated Guidelines can be found here.