

Title 200 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

CHAPTER 6 - DEPARTMENT USE OF FUNDS.

001 Remedial Actions. The department may undertake remedial actions in response to a release first reported after July 17, 1983, and within the period of time established by statute, with money available in the fund, provided:

001.01 The responsible person cannot be identified or located;

001.02 An identified responsible person cannot or will not comply with the remedial action requirements; or

001.03 Immediate remedial action is necessary, as determined by the director of the department, to protect human health or the environment.

002 Third-party Claims. The department may pay the costs of a third-party claim meeting the requirements of chapter 3, 001.06 of these regulations with money available in the fund if the responsible person cannot or will not pay the third-party claim.

003 Claim Under State Miscellaneous Claims Act. The department shall pay any final award made by the State Claims Board pursuant to the State Miscellaneous Claims Act.

004 Damages Caused by the Department. Reimbursement for any damage caused by the department or a person acting at the department's direction while investigating or inspecting or during a remedial action on property other than property on which a release or suspected release has occurred shall be considered as part of the costs of remedial action involving the site where the release or suspected release occurred.

004.01 The costs shall be reimbursed from money available in the fund.

004.02 If such reimbursement is deemed inadequate by the party claiming the damages, the party's claim for damages caused by the department shall be filed as provided in Neb. Rev. Stat. §76-705.

005 Recovery of Expenditures. All expenses paid from the fund under this chapter of these regulations, court costs, and attorney's fees may be recovered in a civil action in the district court of Lancaster County.

005.01 This action may be brought by the county attorney or Attorney General at the request of the director of the department against the responsible person.

005.02 All recovered expenses shall be deposited into the fund.

Enabling Legislation: Neb. Rev. Stat. §§66-1518, 66-1529.02 (Supp. 1999)

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