

224.60-120 Financial responsibility of petroleum storage tank owner or operator -- Administrative regulations.

- (1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.
 - (a) For petroleum storage tank owners or operators of eleven (11) or more tanks, the level of financial responsibility to be established and maintained shall be twelve thousand five hundred dollars (\$12,500) per occurrence for taking corrective action and twelve thousand five hundred dollars (\$12,500) per occurrence for compensating third parties for bodily injury and property damage.
 - (b) For petroleum storage tank owners or operators of six (6) to ten (10) tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be two thousand five hundred dollars (\$2,500) per occurrence for taking corrective action and two thousand five hundred dollars (\$2,500) per occurrence for compensating third parties for bodily injury and property damage.
 - (c) For petroleum storage tank owners or operators of five (5) or less tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be five hundred dollars (\$500) per occurrence for taking corrective action and for compensating third parties for bodily injury and property damage.
- (2) Evidence of financial responsibility may be established by any combination of the following:
 - (a) Commercial or private insurance, including risk retention groups;
 - (b) Qualification as a self-insurer;
 - (c) A guarantee, surety bond, or letter of credit; or
 - (d) Any other reasonable and economically practicable means in a form acceptable to the division.
- (3) To qualify as a self-insurer, the petroleum storage tank owner or operator shall demonstrate a net worth in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.
- (4) The total liability of any guarantor under KRS 224.60-105 to 224.60-160 is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides

evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

- (5) It is the intent of the General Assembly that the fund established pursuant to KRS 224.60-140, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.
- (6) The Department for Environmental Protection, Division of Waste Management, shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the division shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section. The administrative regulations may allow a twenty-five percent (25%) reduction in the level of financial responsibility set in subsection (1) of this section for the timely completion of corrective action.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 123, sec. 25, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 284, sec. 4, effective July 15, 1998; and ch 498, sec. 3, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 421, sec. 4, effective July 15, 1994. Amended 1992 Ky. Acts ch. 450, sec. 2, effective April 13, 1992. -- Created 1990 Ky. Acts ch. 370, sec. 4, effective April 9, 1990.

Formerly codified as KRS 224.817.