

567—136.4(455B) Amount and scope of required financial responsibility.

136.4(1) Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following per-occurrence amounts:

a. For owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year; \$1 million.

b. For all other owners or operators of petroleum underground storage tanks; \$500,000.

136.4(2) Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:

a. For owners or operators of 1 to 100 petroleum underground storage tanks, \$1 million.

b. For owners or operators of 101 or more petroleum underground storage tanks, \$2 million.

136.4(3) For the purposes of subrules 136.4(2) and 136.4(6) only, a petroleum underground storage tank means a single containment unit and does not mean combinations of single containment units.

136.4(4) Except as provided in subrule 136.4(5), if the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for:

a. Taking corrective action;

b. Compensating third parties for bodily injury and property damage caused by sudden accidental releases; or

c. Compensating third parties for bodily injury and property damage caused by nonsudden accidental releases, the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in subrules 136.4(1) and 136.4(2).

136.4(5) If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

136.4(6) Owners or operators shall review the amount of aggregate assurance provided whenever additional petroleum underground storage tanks are acquired or installed. If the number of petroleum underground storage tanks for which assurance must be provided exceeds 100, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

136.4(7) The amounts of assurance required under this rule exclude legal defense costs.

136.4(8) The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.