



ADMINISTRATIVE RULES OF MONTANA

17.58.336 REVIEW AND DETERMINATION OF CLAIMS FOR REIMBURSEMENT

- (1) The board may not approve a claim for reimbursement unless the owner or operator has submitted a completed application for eligibility and the board has determined that the owner or operator is eligible in accordance with 75-11-308, MCA.
- (2) Upon receipt of a claim for reimbursement for corrective action costs the board staff will determine if the claim form is complete. The board staff will promptly advise the owner or operator, or a remediation contractor acting on behalf of an owner or operator, of any incompleteness or deficiency that appears on the claim form. The final review may be suspended pending the submission of additional information by the owner or operator, or a remediation contractor acting on behalf of an owner or operator.
- (3) Claim forms that have been reviewed as complete at least 60 days prior to a scheduled board meeting will normally be considered by the board at that meeting. The reimbursement of claims for which authority to reimburse has been delegated under (4), is not subject to this procedure. The agenda for consideration of claims at board meetings must follow the order in which claim forms were reviewed as complete and that are not reimbursed under (4).
- (4) Upon notification that the proposed fund expenditures may not be in accordance with 75-11-313(3), MCA, the board chairperson will review the evidence and decide whether to initiate a third-party review. If the chairperson decides to initiate a third-party review, he or she will submit a claim for review to a qualified third party of his or her choosing. The results of the third-party review will be included in the board's claim review process per 75-11-312, MCA.
- (5) The recommendations of the board staff must be mailed to each board member at least seven days before the date of the board meeting at which the claim is scheduled to be considered.
- (6) The owner or operator may appear before the board and make a statement regarding the claim and the board staff's recommendations. Any other interested party may also make a statement. The board may establish a fair and reasonable limit on the time allowed for oral presentations. The board will thereafter consider the claim and, upon making the determinations required by 75-11-309(3), MCA, may grant it in whole, in such part as may to the board seem proper, or may deny the claim. Reasons for partial or total denials or disallowed expenses must be stated in the claim reimbursement summary contained in the file. The minutes of a board meeting must reflect the sequence of actions taken on claims.
- (7) Claims subject to the provisions of 75-11-309(2) or (3)(b)(ii), MCA, must be reimbursed according to the following:
 - (a) Except as provided in (7)(e), such claims must be paid pursuant to the following schedule:

Period of Noncompliance	Percent of allowed claim to be reimbursed
1 to 30 days	90%
31 to 60 days	75%
61 to 90 days	50%
91 to 180 days	25%
greater than 180 days	no reimbursement

- (b) For claims subject to the provisions of 75-11-309(2), MCA, the period of noncompliance must begin on the date upon which the department issues an administrative order to the owner or operator. The period of noncompliance must end on the date upon which the owner or operator has satisfied the administrative order, as determined by the department in writing.
- (c) For claims subject to the provisions of 75-11-309(3)(b)(ii), MCA, the period of noncompliance must begin on the date upon which the board determines that the owner or operator has not complied with 75-11-309, MCA, or rules adopted pursuant to 75-11-309, MCA. The period of noncompliance must end on the date upon which the board determines that the owner or operator has returned to compliance.
- (d) Reimbursement of claims filed during the period of noncompliance must be suspended by the board. If the owner or operator returns to compliance as provided in (7)(b) or (c), the board may allow reimbursement of the suspended and future claims as provided in (7)(a). Any such reimbursement is subject to the requirements of 75-11-309(3)(a), MCA.
- (e) The percentages of reimbursement set forth in (7)(a) may be adjusted by the board according to the procedures in (6) upon a substantial showing by the owner or operator that one or more of the following factors applies and would entitle the owner or operator to an adjustment:
 - (i) the noncompliance has not presented a significant increased threat to public health or the environment;
 - (ii) there has been no significant additional cost to the fund;
 - (iii) the delay in compliance was caused by circumstances outside of the control of the owner or operator;
 - (iv) there was an error in the issuance of the administrative order or an error in the determination of the date an administrative order was satisfied; or
 - (v) any other factor that would render use of the reimbursement schedule in (7)(a) demonstrably unjust.
- (8) With the exception of the time frames set forth in (7)(a), any other time periods specified in this rule may be extended by agreement between the board and the owner or operator.
- (9) Claims for preventative costs subject to the provisions of 75-11-310, MCA, must be reimbursed according to the following:
 - (a) Facilities that are eligible to submit claims for preventative costs are those that are actively dispensing petroleum and fall under the regulatory authority of and compliance with the Department of Environmental Quality's Underground Storage Tank Program. Facility types

that are excluded from applying for preventative costs are those identified in 75-11-308(2)(a) through (d), MCA.

- (b) The first claim for preventative costs will only be considered 1,000 days after an actively dispensing facility's most recent tri-annual mandatory compliance inspection. The owner or operator that incurred the preventative costs may submit one consolidated claim, not exceeding \$2,000 in claimed costs, to the board in a form and manner approved by the board.
- (c) After the first claim is submitted under (a), subsequent claims will be submitted in 1,000-day intervals, in a consolidated claim not exceeding \$2,000.
- (d) Each preventative costs claim submitted for reimbursement will require proof of payment of the costs by the owner or operator that incurred those costs, and appropriate receipts of all costs for which reimbursement is sought.
- (e) Each preventative costs claim received as outlined in (b) and (c) will be brought before the board at their regularly scheduled board meetings, for ratification of costs and will not be subject to disputes. Only fully documented claims submitted in the form and manner approved by the board will be considered for ratification of payments made.
- (f) The board will consider preventative costs claims if they are submitted within the timing outlined in 75-11-310, MCA, are for costs incurred after the effective date of 75-11-310, MCA, are submitted on the form approved by the board, and contain the required documentation to support the requested reimbursement for preventative costs.

Authorizing statute(s): 75-11-318, MCA

Implementing statute(s): 75-11-309, 75-11-310, MCA

History: NEW, 1990 MAR p. 516, Eff. 3/16/90; AMD, 1991 MAR p. 2036, Eff. 11/1/91; AMD, 1993 MAR p. 2678, Eff. 11/11/93; TRANS, from DHES, and AMD, 1996 MAR p. 3125, Eff. 12/6/96; AMD, 1999 MAR p. 1512, Eff. 7/2/99; AMD, 1999 MAR p. 2279, Eff. 10/8/99; AMD, 2001 MAR p. 2024, Eff. 10/12/01; AMD, 2006 MAR p. 1734, Eff. 7/7/06; AMD, 2011 MAR p. 377, Eff. 3/25/11; AMD, 2011 MAR p. 1370, Eff. 7/29/11; AMD, 2024 MAR p. 329, Eff. 2/24/24; AMD, 2025 MAR, Notice No. 2025-195, Eff. 1/1/26.