

REGULATED SUBSTANCE RESPONSE FUND



South Dakota Legislative Research Council

Frequently Asked Questions

The purpose of this FAQ sheet is to provide information to the Joint Committee on Appropriations regarding Informational Budgets in the South Dakota budgetary system. The information was compiled by the Legislative Research Council with assistance from the Department of Legislative Audit and the Government Operations and Audit Committee.

When and why was this fund created?

The Regulated Substance Response Fund was created by the 1988 Legislature for the purpose of providing funds for the cleanup of regulated substance discharges. Regulated substances include pesticides, fertilizers, hazardous substances, toxic pollutants, petroleum, oil, gasoline, and kerosene, etc. The fund is attached to the Department of Environment and Natural Resources for informational budgeting and administration of the fund.

Where does the revenue come from?

The revenue for the fund comes from:

- (1) Appropriations from the general fund;
- (2) Money from civil action or administrative proceeding based upon violation of the state's environmental statutes or upon damage to the environment, including actions from administrative expense recoveries, civil penalties, compensatory damages, and money paid from any agreement stipulation or settlement;
- (3) Interest due to the fund; gifts, grants, reimbursements, or any appropriations for the purpose of the fund;
- (4) One-time contribution of \$350,000 from the petroleum release compensation fund; and
- (5) A temporary pesticide registration increase.

Has the original purpose of the fund changed?

The original purpose was to provide funds for the cleanup of regulated substance discharges. The purpose hasn't changed, but a subfund was added to the fund by the Legislature in 1990.

34A-12-3.1 created a subfund of the Regulated Substance Response Fund for recovered leaking underground storage tank trust fund money. The subfund is separately maintained and administered in the manner required by the Superfund Amendments and Reauthorization Act of 1986 as amended as of January 1, 1990. Money deposited in the subfund is disbursed and used only for the purposes authorized under subtitle I of the Resources Conservation Recovery Act as amended, October 1986.

What spending restrictions exist on the fund?

Money in the Regulated Substance Response Fund is continuously appropriated. (34A-12-3)

The Secretary of the Department of Environment and Natural Resources may expend funds to provide for the costs of investigations, emergency remedial efforts, corrective actions, and managerial or administrative activities (34A-12-4). The Secretary's use of the response fund shall be based upon the following:

(1) In the case of an investigation, when the Secretary determines that a discharge requiring an emergency remedial effort may have occurred and that the general operating budget of the department for such purposes is not adequate to cover the costs of the necessary investigatory activities;

(2) In the case of an emergency remedial effort, when the Secretary determines that a discharge has occurred and that corrective actions shall be immediately undertaken to protect an imminent threat to the public health or safety or to contain a discharge which, if not immediately contained, shall in time pose a significantly greater threat to public health or safety or to the environment of this state than if such action is not immediately taken; and

(3) In the case of a discharge not of an emergency nature when the Secretary determines that a discharge has occurred, that a responsible party or liability fund capable of performing the corrective actions either cannot be identified or refuses to undertake corrective actions, and that corrective actions shall be undertaken to protect the public health, safety, welfare, or environment of the state.

Is the fund on the state accounting system? What is the timing of the Fiscal Year?

The fund is on the state accounting system. The fiscal year runs the same as the State Fiscal Year which is from July 1 to June 30.

What Oversight Exists?

The South Dakota Department of Legislative Audit has audited the financial statements of the Regulated Substance Response Fund as of June 30, 2006. The fund is also reviewed annually by the Joint Appropriation's Committee during the budget hearing process for the Department of Environment and Natural Resources.

2007 Government Operations and Audit Committee "Blue Book"

Prepared by the Department of Legislative Audit

Other Fund Information

Department of Environment and Natural Resources

State Accounting System - Other Fund Balances

Company 3072 - Regulated Substance Response Fund

	FY2004	FY2005	FY2006	FY2007
1 Cash Pooled with State Treasurer	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
2 Total Assets	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
3				
4 Accounts Payable	-	-	-	-
5 Total Liabilities	-	-	-	-
6				
7 Reserve for Encumbrances	-	-	-	-
8 Unreserved Fund Balance	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
9 Total Fund Equity	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
10 Total Liabilities and Fund Equity	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91
11				
12				
13 Fines, Forfeits and Penalties	206,760.55	94,773.50	71,822.44	258,119.00
14 Use of Money and Property	427,150.97	305,503.74	286,594.57	336,433.25
15 Other Revenue	-	901.17	-	-
16 Total Operating Revenue	633,911.52	401,178.41	358,417.01	594,552.25
17				
18 Personal Services and Benefits	-	-	-	-
19 Travel	-	-	-	-
20 Contractual Services	25,511.74	60,273.99	110,598.34	34,222.32
21 Supplies and Materials	-	-	-	-
22 Grants and Subsidies	-	-	-	-
23 Capital Outlay	-	-	-	-
24 Total Operating Expenditures/Expenses	25,511.74	60,273.99	110,598.34	34,222.32
25				
26 Transfers In	14,761.73	-	5,000.00	-
27 Transfers Out	(353,859.10)	(250,740.20)	(233,410.41)	(272,413.01)
28 Net Transfers In (Out)	(339,097.37)	(250,740.20)	(228,410.41)	(272,413.01)
29				
30 Net Change	269,302.41	90,164.22	19,408.26	287,916.92
31				
32 Beginning Fund Equity	1,567,873.10	1,837,175.51	1,927,339.73	1,946,747.99
33 Ending Equity	1,837,175.51	1,927,339.73	1,946,747.99	2,234,664.91

Company: 3072

Company Name: Other Funds - Participating

Fund Name: Regulated Substance Response Fund

Fund Type: Special Revenue

Purpose: SDCL 34A-12-3 created the Regulated Substance Response Fund. Source: Appropriation from general fund; money from civil action or administrative proceeding for violation of environmental statutes or upon damage to the environment, including actions for administrative expense recoveries, civil penalties, compensatory damages, and money paid pursuant to any agreement, stipulation, or settlement in such actions or proceedings; interest attributable to investment of the money in the response fund; one-time contribution from petroleum release cleanup fund; temporary pesticide registration fee increase. Use: Money is continuously appropriation to provide funds for the clean up of regulated substance discharges.

SDCL 34A-12-3.1 created a subfund of the Regulated Substances Response Fund. Source: Recovered leaking underground storage tank trust fund moneys. The subfund shall be separately maintained and administered in the manner required by the Superfund Amendments and Reauthorization Act of 1986 as amended as of January 1, 1990. Use: Moneys deposited in the subfund shall be disbursed and used only for the purposes authorized under subtitle I of the Resources Conservation Recovery Act as amended, October 1986.

SDCL 1-50-9 created the SARA Fee Subfund for deposit of all monies including fees received pursuant to 1-50-8. Used to defray expenses for the state emergency response commission and match for any grants the commission may receive.

Budget Information: Included in the General Appropriations Bill as an informational budget.

Condition Statement Prepared by the Bureau of Finance and Management on 10/15/07

**Department of Environment & Natural Resources
Regulated Repsonse Fund
Condition Statement (3072-802-Info)**

	ACTUAL FY2006	ACTUAL FY2007	BUDGETED FY2008
TOTAL RECEIPTS	<u>\$125,007</u>	<u>\$322,139</u>	<u>\$164,000</u>
TOTAL DISBURSEMENTS	<u>\$110,598</u>	<u>\$34,222</u>	<u>\$1,750,000</u>
TRANSFER IN/ (OUT)	\$5,000	\$0	\$0
NET (Receipts + Transf- Disburs)	<u>\$19,409</u>	<u>\$287,917</u>	<u>(\$1,586,000)</u>
BEGINNING CASH BALANCE	\$1,927,341	\$1,946,750	\$2,234,667
ENDING BALANCE	<u><u>\$1,946,750</u></u>	<u><u>\$2,234,667</u></u>	<u><u>\$648,667</u></u>