



MONTANA LEGISLATIVE AUDIT DIVISION

Administration of the Petroleum Tank
Release Cleanup FundPETROLEUM TANK RELEASE COMPENSATION BOARD,
ADMINISTRATIVELY ATTACHED TO THE
DEPARTMENT OF ENVIRONMENTAL QUALITY**BACKGROUND**

The seven-member governor-appointed Petroleum Tank Release Compensation Board oversees a staff of six and manages the Petroleum Tank Release Cleanup Fund. The fund, financed by a \$0.0075 per gallon fee on gasoline and other fuels, reimburses owners of underground storage tanks for costs associated with cleaning environmental damage caused by leaking tanks.

Attached to: Department of Environmental Quality

Board Chair:
Keith Schnider, Great Falls

Executive Director:
Terry Wadsworth

Annual Fund Revenue:
Approximately \$7 million in fiscal year 2020

The Petroleum Tank Release Compensation Board is largely effective in its review and reimbursement of claims in environmental cleanup at the sites of leaking storage tanks. Unfortunately, Montana has long lagged the nation in the percentage of historic leaks that have been closed. To improve performance, we found the board could collaborate with the Department of Environmental Quality to review corrective action plans before department approval. There is an opportunity for saving board time and resources by having corrective action plans be competitively bid rather than the board applying its current cost control processes. When Montana's backlog of leaks is cleaned up, the state must decide whether a public financial assurance model is the best for the citizens of Montana. A more in-depth analysis by the board of potential options would help inform this decision.

KEY FINDINGS:

The board's entire review of corrective action plans should take place earlier in the process. The board does not fully review plans until they are approved by the department. Statute indicates it would be more appropriate for the board to review plans prior to the department's approval.

The board is inappropriately reviewing technical details of corrective action plans. The department should have the final say in how cleanups are facilitated. The board should review cleanups for cost and to ensure sites are eligible for reimbursement from the fund.

A competitive bidding process for contracted cleanup projects would save board staff time and should result in efficient cleanups. The board expends significant resources reviewing costs associated with corrective action plans and costs remitted for reimbursement by consultants. Bidding projects competitively, as is done for contracts throughout state government, would establish the costs of projects before corrective action plans are approved, for a potentially lower cost.

For the full report or more information, contact the Legislative Audit Division.

leg.mt.gov/lad

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The board can do more to present options to the legislature for consideration as the state's backlog of releases is closed. Some states have made participation in their cleanup funds optional, while others require tank owners to buy insurance on the private market.

RECOMMENDATIONS:

In this report, we issued the following recommendations:

To the board/department: 3

To the legislature: 1

RECOMMENDATION #1 (page 17):

We recommend the Petroleum Tank Release Compensation Board work with Department of Environmental Quality to collaborate during corrective action plan development to verify eligibility, assure fund availability, and provide any other relevant input for consideration prior to final plan approval by the department.

Board response: **Concur**

Department response: **Concur**

RECOMMENDATION #2 (page 20):

We recommend the Montana Legislature clarify statute by making amendments as needed to clarify the Petroleum Tank Release Compensation Board does not have a role in approving or basing reimbursement on the specific methods prescribed within approved corrective action plans that bring an eligible petroleum release to closure.

RECOMMENDATION #3 (page 28):

We recommend the Petroleum Tank Release Compensation Board work with the Department of Environmental Quality to develop a process, seeking legislation if necessary, whereby remediation projects are competitively bid to bring releases to closure, in accordance with existing state procurement laws.

Board response: **Conditionally Concur**

Department response: **Concur**

RECOMMENDATION #4 (page 33):

We recommend the Petroleum Tank Release Compensation Board work with the Department of Environmental Quality to seek legislation that prepares the fund for the eventual closure of all historic underground storage tank release in Montana.

Board response: **Partially Concur**

Department response: **Concur**