

BEFORE THE PETROLEUM TANK RELEASE COMPENSATION BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.58.311, 17.58.313, and 17.58.325)
pertaining to eligibility determination for)
petroleum storage tank cleanup)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On October 5, 2021, at 1:00 p.m., the Petroleum Tank Release Compensation Board will hold a public hearing in the Bitterroot Room of the Cedar Street building, 1225 Cedar Street, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., September 28, 2021, to advise us of the nature of the accommodation that you need. Please contact Garnet Pirre, Program Specialist, Petroleum Tank Release Compensation Board, P.O. Box 200902, Helena, Montana 59620-0902; phone (800) 556-5291; fax (406) 841-5091; e-mail gpirre@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.58.311 DEFINITIONS Unless the context clearly indicates otherwise, the following definitions, in addition to those in 75-11-302, MCA, apply throughout this chapter:

(1) through (24) remain the same.

(25) "Release discovery date" means the earliest of:

(a) the date of discovery by an owner or an operator of any of the conditions set forth in ARM 17.56.502(1), provided that a release is confirmed in any manner provided in ARM 17.56.504 or 17.56.506 after the condition is discovered and has been identified and assigned a unique identification number, as provided in ARM 17.56.508;

(b) through (31) remain the same.

AUTH: 75-11-318, MCA

IMP: 75-11-318, MCA

REASON: The amended rules will confirm the board's reliance on the department's assignment of a unique identification number to each petroleum release. ARM 17.56.508 Numbering Petroleum Releases was adopted in December 2007. Even prior to that rule and since its adoption, the board's determination of the number of releases that can be considered for eligibility is controlled by the number

of releases the department assigns to a site with a unique identification number. It is reasonably necessary to add this reference to ARM 17.56.508 to clarify that the board relies entirely on the department's release identification rule when determining eligibility for each release and the board does not have the authority or administrative means to make this determination.

17.58.313 APPLICABLE COPAYMENTS FOR COMMINGLED PETROLEUM STORAGE TANK RELEASES (1) and (2) remain the same.

(3) A person who seeks reimbursement from the fund at a rate different than that provided in 75-11-307(4)(b)(i)(ii), MCA, must prove that it is more likely than not that no leaking petroleum storage tank at the site is eligible under that section.

AUTH: 75-11-318, MCA

IMP: 75-11-307, MCA

REASON: The board desires to correct the reference, which was a result from a change in statutory language.

17.58.325 ELIGIBILITY DETERMINATION (1) remains the same.

(2) The board may only determine eligibility for reimbursement of costs associated with a release that has been assigned a unique identification number by the department pursuant to ARM 17.56.508.

AUTH: 75-11-318, MCA

IMP: 75-11-309, MCA

REASON: The amended rules will confirm the board's reliance on the department's assignment of a unique identification number to each petroleum release. ARM 17.56.508 Numbering Petroleum Releases was adopted in December 2007. Even prior to that rule and since its adoption, the board's determination of the number of releases that can be considered for eligibility is controlled by the number of releases the department assigns to a site with a unique identification number. It is reasonably necessary to add this reference to ARM 17.56.508 to clarify that the board relies entirely on the department's release identification rule when determining eligibility for each release and the board does not have the authority or administrative means to make this determination.

4. Concerned persons may submit their data, views, or arguments concerning the proposed amendments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Garnet Pirre, Program Specialist, Petroleum Tank Release Compensation Board, P.O. Box 200902, Helena, Montana 59620-0902; phone (800) 556-5291; fax (406) 841-5091; e-mail gpirre@mt.gov, no later than October 12, 2021. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have

their name added to the list shall make a written request that includes the name and mailing address of the person to receive rulemaking notices. Such written request may be mailed or delivered to Garnet Pirre, Program Specialist, Petroleum Tank Release Compensation Board, P.O. Box 200902, Helena, Montana 59620-0902; phone (800) 556-5291; fax (406) 841-5091; e-mail gpirre@mt.gov or may be made by completing a request form at any rules hearing held by the board.

6. Julia Swingley, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

Reviewed by:

PETROLEUM TANK RELEASE
COMPENSATION BOARD

/s/ Julia Swingley

Julia Swingley
Rule Reviewer

BY: /s/ Keith Schnider

Keith Schnider
Presiding Officer

Certified to the Secretary of State August 31, 2021.