

Recommendation	Does the System Impact a Federal Program?	CFDA	Management Response	Notes	Corrective Action Plan	Person Responsible	Target Date
1) 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.	No	n/a	Board Concur DEQ Concur	<p>The Board has and will continue to work collaboratively with the department to improve the work plan review process and to ensure that information regarding eligibility, fund availability, and other relevant information is readily available for consideration prior to final plan approval by the department. The Board will work collaboratively with department staff and stakeholders to evaluate strategies to improve the business process of requesting work and ensuring work that has been obligated is implemented and completed in a timely manner in an effort to get releases to closure in a cost effective and well timed manner.</p> <p>DEQ is willing and eager to work collaboratively with Board and staff to explore options and determine a streamlined process for the Board's eligibility determination and fund obligations to move sites to closure in a timely and efficient manner. DEQ recognizes addressing this recommendation will likely require a statute change and is willing to work collaboratively in this process.</p> <p>The department will continue to encourage coordination and planning meetings with stakeholders to improve communication, transparency, and facilitate timely work plan approvals and fund obligations.</p> <p>The department has and will continue to copy Board staff as recipients on letters addressed to responsible parties for work plan requests, approvals, modifications, and extensions; provide copies of work plans for investigation and remediation sent out for sanitarian comment; and inform Board staff that the work plan will be approved within 15 days of receipt of sanitarian comment (or expiration of the comment period) in accordance with the Administrative Rules of Montana (ARM).</p>	<p>The Board will meet regularly with department staff to strategize on business process and database changes that will improve availability of eligibility, funding, and other information. The Board will work with the department staff to develop guidance on cleanup requirements. The Board will collaborate on public outreach to stakeholders to identifying evidence, methods of collection, and documentation so the information needing consideration can be available before work plan approval.</p> <p>DEQ CAP</p> <p>1.The department is willing to meet within the regulatory reform framework (November/ early December 2021) to discuss the process and statute/rule changes necessary to ensure collaboration during CAP development to verify eligibility, assure fund availability and provide other relevant input.</p> <p>2. DEQ will reach out to other states in the region to discuss their process for eligibility determination/fund availability and collaboration efforts between the fund and state. DEQ will determine what approaches seem most likely to work in Montana and engage the board/stakeholders for feedback.</p> <p>3. DEQ will work with the Board to assist with process improvements (implementing and paying for planning meetings) and develop tools (such as a reasonable cost guidance/outreach/prerelease eligibility) to improve communication, transparency, and facilitate timely fund obligations.</p> <p>4. As process improvements/ regulatory reform is discussed, the department will seek input from stakeholders, and assist with moving regulatory reform and/or stakeholder education forward.</p>	Board, Terry Wadsworth, Jenny Chambers, Terri Mavencamp, Marla Stremcha	December 2022 DEQ recommends 1. Nov. & Dec. 2021 2. Q1 2022 3. Q2 2022 4. Q3 2022
2) 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 w/in approved corrective action plans that bring an eligible petroleum release to closure.		n/a	DEQ Concur	DEQ agrees it would be helpful if there was clarity in statute and legislative intent for roles and responsibilities regarding what is needed for environmental protection and technical methodology or requirements of corrective action plans to bring releases to closure. The technical review and development of workplans should solely fall to environmental scientists, working with professional consultants, with specific knowledge, skills, and ability to oversee workplans and address site cleanup efforts. DEQ agrees to work with the Board and stakeholders to assist with amendments as needed to clarify statute to address recommendation #2, (75.11.309(3a); 75.11.312; 75.11.318(4c)).	<p>DEQ suggests, DEQ and the Board propose language to the Montana legislature during the 2023 session. DEQ and the Board should meet regularly to discuss and then conduct stakeholder outreach.</p> <p>1.The department is willing to meet with the Board to identify language that requires adjustment to clarify the Board's role in approving or basing reimbursement on the specific methods prescribed w/in approved corrective action plans that bring an eligible petroleum release to closure.</p> <p>2. The department and Board identify language changes and engage stakeholders for input</p> <p>3. The legislature moves forward with support from the department and Board on statute modifications.</p>	Mt legislature: Terry Wadsworth, Board, Jenny Chambers, Terri Mavencamp, Marla Stremcha can suggest to legislature clarifying language	DEQ recommends Q1 - by Mar 2022 Q2 - by Jun 2022 Q3 - by Sep 2022
3) 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.	Could affect fund structure and the reauthorization of the fund in MT	n/a	Board Conditionally Concur DEQ Concur	<p>The Board is willing and eager to work collaboratively with the DEQ to explore options and determine a streamlined process for how improvement might be made to bring releases to closure. It is important to recognize that the state of Montana is not in the business of assuming liability, but, rather, in the business of funding cleanup to eliminate liability by closing petroleum contaminated sites. The Board is concerned that under Montana contract law, the Board would be indirectly accepting liability, on behalf of the state, via a contract with a consultant for cleanup of a contaminated site. The Board does not have authority to accept liability for the state, only to reimburse an owner for cleanup of petroleum contamination from eligible tanks. The implementation of this recommendation could directly impact external stakeholders such as consultants and owners/operators. The degree of impact depends on how the recommendation is implemented. Stakeholder involvement will be an important part of the evaluation and change process. If the owner is required by law to obtain several competitive bids for standardized cleanup activity, such as occurs with automotive repair, the owner/operator would retain the ability to select their consultant and be engaged in the cleanup process. This approach keeps the state from indirectly accepting liability. The Board believes that implementing a competitive bid process will require changes to state cleanup process guidance and will work collaboratively with the stakeholders to update guidance, as necessary.</p> <p>DEQ is willing and eager to work collaboratively with Board and staff to explore options and determine a streamlined process for how improvement can be made to bring releases to closure. Implementation of this recommendation would directly impact external stakeholders (such as consultants and owners/operators). This will be an important effort towards evaluation and regulatory reform. For other cleanup efforts lead by DEQ using other funding sources (such as one-time appropriation of funds for non-eligible petroleum releases), DEQ does use a competitive process that complies with state procurement laws. Any process changes and impacts to the cost eligibility and determination to obligate funds would have to ensure that projects could be managed with resources available, and in a manner that ensures increased efficiency and long-term success.</p>	<p>The Board will examine and evaluate the competitive bidding processes other states use to accomplish release cleanup. The Board will work with DEQ staff to conduct public outreach to stakeholders to provide input on the processes. The Board will develop possible alternatives and identify the best alternative. The Board will submit the chosen alternative for a legal reviewed to identify possible statutory changes. If statutory changes are identified the Board will seek a legislative bill sponsor and draft any necessary legislation. Once legislation is passed the Board will make updates to their database cost management and work plan tracking system. The Board will work with DEQ staff to conduct public outreach to stakeholders to provide information regarding the changes to the work plan process. The has made a practice of implementing changes to business processes in January of each year. Therefore, implementation of the bidding process would be expected in January of 2024.</p> <p>DEQ suggests learning about other state's processes that use a competitively bid process to bring releases to closure. DEQ will meet with Wyoming and EPA in the first quarter 2022 to learn about their process. In Q2 2022, DEQ will determine what approaches seem most likely to work in Montana and engage the board/stakeholders for feedback. In Q3 DEQ will work with the board and staff to identify regulatory/guidance changes needed to implement the competitive process.</p>	Board, Terry Wadsworth, Jenny Chambers, Terri Mavencamp, Marla Stremcha	January 2024 DEQ recommends Q1 - by Mar 2022 Q2 - by Jun 2022 Q3 - by Sep 2022
4) 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.	Possible impacts to financial assurance requirements for underground storage tank leak prevention and reauthorization of the fund in MT	n/a	Board Partially Concur DEQ Concur	<p>The Board recognizes that the historic backlog of petroleum releases needs to be addressed. The Board looks forward to working with the DEQ on getting all petroleum releases assessed and in the process of being cleaned up, so that projects are managed along with available resources in a manner that ensures increased site closures and long-term success. The available funding in the Fund needs to be utilized for petroleum cleanup to the maximum extent possible. The amount of requested cleanup should be matched with available funding. Making use of all the available funding results in more timely site closures.</p> <p>DEQ agrees there will be a time in the future that historic backlog of petroleum releases will be addressed, however each year there are new releases that occur or are discovered. In accordance with the ARM 17.56.805, underground storage tank owners/operators must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental release arising from the operation of petroleum underground storage tanks. Under ARM 17.56.815 an owner or operator may satisfy any part of its financial responsibility requirements by using the Montana petroleum tank release cleanup fund. Many owners and operators rely on the fund and the statement of tangible net worth to satisfy the financial assurance requirements. There are other types of financial responsibility mechanisms that exist that could be used. As the audit outlines, other states have different funding structures that are used and should be evaluated. DEQ will work with the Board and staff on this recommendation, as it leads this effort.</p>	<p>The Board will work with the department to develop an overarching strategic plan of timely assessing all currently active releases, to have a cleanup remedy identified and a schedule for both the cleanup remedy and any subsequent activity. The Board will collaborate with the department to develop a process whereby the owners are inspired to timely start and complete any approved corrective action.</p> <p>DEQ -</p> <p>Q1 - Talk to other states that have plans in place for eventual closure of the fund. Q2 - Determine what approaches seem most likely to work in Montana and engage the Board and stakeholders to determine the best path forward. Q3 - DEQ will work with the board and staff to identify legislation needed to prepare the fund for the eventual closure of all historic underground storage tank release in Montana.</p>	Board, Terry Wadsworth, Jenny Chambers, Terri Mavencamp, Marla Stremcha	December 2022 DEQ recommends Q1 - by Mar 2022 Q2 - by Jun 2022 Q3 - by Sep 2022