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**SOUTH DAKOTA**  
**PETROLEUM RELEASE COMPENSATION BOARD MEETING**  
**Meeting Agenda – December 12, 2019**  
**Foss Building, Matthew Training Center**  
**Pierre, South Dakota**

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**Live audio of the meeting and the full board packet can be found on the South Dakota Boards and Commissions Portal at <http://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=73>**

**Thursday, December 12, 2019 1:30 PM**

- I. Call to Order and Declare Quorum
- II. Review and Approve/Disapprove Minutes of December 13, 2018, Board Meeting
- III. Introduction of Secretary Hunter Roberts
- IV. Public Comment Period
- V. Report on the Financial Status of the Fund - *briefing by Alan Bakeberg (PRCF)*
- VI. EPA Fund Soundness Review – *briefing by John McVey (PRCF)*
- VII. Annual Meeting with Representatives of the Insurance Industry
  - A. Purpose and preparations for meeting
  - B. Review of 2018 Annual Report
  - C. Review of written comments
  - D. Comments from the floor and discussion
  - E. Board discussion and recommendation
- VIII. Introduction of Terry Florentz, DENR Tank Section Manager
- IX. Underground Storage Tank Operator Training Update - *update by Dawna Leitzke (SDP<sub>2</sub>MA)*
- X. Other Business
- XI. Election of Officers
- XII. Schedule Future Meetings
- XIII. Executive Session – Litigation Update
- XIV. Adjourn

**MINUTES OF THE  
SOUTH DAKOTA PETROLEUM RELEASE COMPENSATION  
BOARD MEETING  
December 13, 2018**

The South Dakota Petroleum Release Compensation Board Meeting was called to order by Chairman Dennis Rowley at 1:30 P.M. on December 13, 2018, and was held in the Foss Building, Matthew Training Center. A quorum was declared with all board members present.

Members Present: David Kallemeyn, Don Meyers, Dennis Rowley, Rudy Gerstner and Bert Olson.

Others Present: Alan Bakeberg, John McVey, Terry Florentz, Doug Miller and Vickie Maberry, DENR; Craig Eichstadt , Office of Attorney General; Dawna Leitzke, South Dakota Petroleum & Propane Marketers Association; and, Larry Deiter, Division of Insurance.

Chairman Dennis Rowley requested a motion to approve the minutes of the June 14, 2018 meeting. A motion was made by Dave Kallemeyn to approve the minutes. Bert Olson seconded the motion.

Alan Bakeberg reviewed the Code of Conduct & Conflict of Interest Policy that was included in the Board Packet.

Alan Bakeberg reported on the financial status of the fund, and reviewed the October 2018 fund statistics report. The Board was also briefed that the department is considering a LUST Trust settlement that will involve transferring approximately \$877,000 from the PRCF to the LUST Trust Settlement Sub-fund. This settlement is similar to what was done in 2014.

John McVey briefed the board on the Environmental Protection Agency's Annual Soundness Review and approval of the PRCF for state fiscal year 2017.

Letters were sent in November to those in the industry that have expressed interest in the board's activities. A copy of the letter and mailing list were provided as handouts, along with a copy of last year's annual report. The letters received from Pat Rounds of Petroleum Marketers Management Insurance Company (PMMIC) and Eric Lehrer of Federated Insurance were reviewed. Discussion followed by the board regarding coverage by the Fund versus private insurance. The consensus is that there seems to be no benefit to tank owners and the public to switch to private insurance, and the downside that many situations covered by the Fund would not be covered by private insurance. Rudy Gerstner made a motion that the annual report to the Legislature be similar to the one submitted last year. Bert Olson seconded the motion. All voted in favor of the motion.

Doug Miller and Dawna Leitzke gave the board an update on the UST owner/operator training that is provided under contract with the PRCF, and the need for ongoing training.

Dawna Leitzke recognized Doug Miller for his many years of service at DENR, as he will be retiring January 8, 2019.

Election of officers: Bert Olson made a motion to nominate the current officers in their positions to extend their terms for one year. Rudy Gerstner seconded the motion. Motion carried. Denny Rowley will continue as board chairman and David Kallemeyn as vice chairman.

The board set tentative future meeting dates of March 28, 2019, June 13, 2019, September 17, 2019, and December 12, 2019.

Petroleum Release Compensation Board  
December 13, 2018, Meeting Minutes

A break was taken at 2:45 pm.

The board went into Executive Session at 2:56 P.M. The board came out of Executive Session at 3:34 P.M. Dave Kallemeyn moved to adjourn the meeting. Motion was seconded by Rudy Gerstner. All voted in favor. Meeting was adjourned at 3:36 pm.

The meeting was digitally recorded and is available, along with the documents referenced above on the Boards and Commissions website at:

[http://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=73.](http://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=73)

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Dennis Rowley, Chairman

**South Dakota  
Petroleum Release Compensation Fund  
October 2019 Fund Statistics**

PRCF  
523 E Capitol Ave  
Pierre SD 57501  
(605) 773-3769  
www.sd.gov/prcf

Total Tank Inspection Fee Revenue Collected in October 2019	\$1,470,329
Amount of October 2019 Tank Inspection Fee Distributed to PRCF	\$276,569
PRCF Balance (November 1, 2019)	\$4,381,443
Average Payment Per Site - Regular Program Only	\$51,995
Average Payment Per Site- Abandoned Tank Program	\$3,519
 <b><u>Current Involvement - Regular Program (Does not include Abandoned Tank Program Sites)</u></b>	
Active Cases	34 Sites
Active/Monitoring Cases	19 Sites
Pending Cases (spill report not yet filed)	3 Sites
TOTAL	56 Sites
 <b><u>Past Involvement - Regular Program (Does not include Abandoned Tank Program Sites)</u></b>	
Closed-Active Cases	38 Sites
Closed-Inactive Cases (sites closed and all claims settled)	1,502 Sites
Closed-No Pymt Cases (sites opened, but closed without PRCF payment)	2,566 Sites
TOTAL	4,106 Sites
 <b><u>Abandoned Tank Removal Program</u></b>	
Total Applications (includes 271 applications that have been withdrawn)	3,538 Sites
Completed Sites (tanks removed)	3,253 Sites
Total Paid to Date	\$11.4 million
 <b><u>Projected Future Obligations</u></b>	
Amount of Claims in Office Pending Review (0 claims)	\$0
Cost Remaining for Sites that have Received at Least One PRCF Payment	\$187,410
Projected Costs for Release Sites Where No Payment Has Yet Been Made	\$1,800,000
Estimated Remaining Costs for Abandoned Tank Removal Program	\$600,000
 <b><u>This Past Month's Activity</u></b>	
Claims Received During Month (8 pay requests)	\$21,269
Claims Processed by Staff (8 pay requests)	\$21,269
Avg. Days in Office for Claims Processed in Past Month	2 Days
Amount Paid Since Fund Began (4789 sites)	\$91.3 million

**Interest & Dividends reduction of \$1,097.88**

**Breakdown of Payments Made to Date**

Type of Facility	No. of Sites Receiving Payments to Date	Cleanup Payments Made to Date
Abandoned Sites (Includes ATP Sites)	3,428	\$19,131,702
Commercial, Co-op	152	\$10,057,201
Commercial, Petroleum	631	\$40,308,188
Commercial, End User	321	\$11,378,346
Farmers	4	\$65,977
Federal Government	4	\$86,580
Local Government	150	\$5,272,966
State Government	84	\$4,703,987
Non-Profit	13	\$285,117
Residential	2	\$21,878
	4,789	\$91,311,942



**South Dakota Petroleum Release Compensation Fund  
Annual Soundness Review  
Fiscal Year 2018**

**February 19, 2019**

**Observations**

**Revised April 29, 2019**

The U. S. Environmental Protection Agency (EPA) annually reviews and assesses the soundness of state cleanup funds established to fulfill the federal financial responsibility requirements for owners and/or operators of federally regulated underground storage tanks (USTs). The EPA's fiscal year (FY) 2018 annual review and assessment of the South Dakota Petroleum Release Compensation Fund (South Dakota State Fund) follows below. The 2018 review is limited in scope and provides observations only.

The South Dakota State Fund Soundness Workbook Charts displaying the data the EPA has considered are in Appendix 1 and are based on South Dakota's fiscal year July 1, 2017, through June 30, 2018.

**Summary of Findings**

The data presented in the *South Dakota FY 2018 Fund Soundness Workbook* did not raise any concerns about the South Dakota State Fund during FY 18. The data trends analyzed by the EPA from 2012-2017 showed that South Dakota was making progress in reducing its backlog of open releases and decreasing the time to clean up releases. In FY 18, there were 31 new releases, 23 federally regulated fund-eligible (FRFE) cleanups, and 7 FRFE cleanups that never received a payment from the Fund, resulting in a net increase of one open FRFE case. The median age of FRFE cleanups remained the same as last year at five months.

**2018 Comments and Observations**

**Findings and Next Steps**

In 2018, the number of FRFE USTs decreased from 2,977 tanks to 2,964 tanks. There were 67 open releases from all federally regulated USTs, and 35 of these were fund-eligible cleanups. At the end of FY 18, South Dakota reported payments on 32 FRFE releases.

In FY 17 and FY 18, the EPA replaced the Cleanup Pipeline chart with two new charts. The first, Chart 5a (line 29 of workbook), is the median age of FRFE cleanups *started* in the current year. This measure provides a sense of how quickly the South Dakota State Fund addresses *new* releases. The second chart, 5b (line 30 of the workbook), is the median age of FRFE cleanups *completed* this year. This measure provides a sense of how quickly the South Dakota State Fund has completed cleanups that started *years* ago. Line 30 shows that the median age of FRFE cleanups completed in FY 18 was only five months. The median cost of South Dakota State Fund financed FRFE release cleanups that were closed in FY 18 was \$7,722.

In FY 18, South Dakota commissioned an actuary report of the South Dakota State Fund.<sup>1</sup> The actuary report included several recommendations that the EPA endorses, including;

### **1. Connection to Tanks Database**

The actuary report states that:

*“At multiple points in our analysis, it became useful to link remediation projects tracked by the PRCF to facilities tracked within the DENR tanks database. However, there is currently no easy method of linking the two databases. A facility number links more recent remediation projects to their associated facilities within the tanks database, but historical remediations cannot easily be tracked to the tanks where the leaks occurred. For this purpose, we made extensive use of the latitude and longitude tracked by the PRCF database and the tanks database, and in many cases, this was sufficient to link the two. However, such matching is not universally possible (due to missing data) or does not always produce reasonable matches. **We would recommend that a systematic effort be undertaken to link historical releases treated by the PRCF to the associated facilities tracked in the tanks database.**”*

**Action:** The EPA and the South Dakota State Fund have discussed this issue in the past and raised the issue with the South Dakota Department of Environment and Natural Resources Storage Tanks program. We would like to discuss future efforts to reconcile and link the two databases during South Dakota and EPA Region 8’s 2018 end-of-year review.

### **2. Tanks Database Missing Elements**

The actuary report states that:

*“In many cases, the tanks currently eligible for coverage by the PRCF are not well-documented in the tanks database. As of April 30, 2018, the following items are not known:*

***Item***  
***Records Missing from Active***  
***Tanks***  
***(Out of 6,149 Records Total)***  
***Address 45***  
***Tank Capacity 14***  
***Installation Year 122***  
***Product Stored 121***  
***Tank Construction 63***  
***Piping Material 232***  
***Piping Type 1,755***

*Tracking these items (and connecting this database to petroleum release events) would help in determining whether tank systems or fuel types were particularly prone to releases. As*

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<sup>1</sup> South Dakota Petroleum Release Compensation Fund Loss and Loss Adjustment Expense Reserve Analysis as of April 30, 2018, Projected to June 30, 2018. Prepared by Taylor & Mulder Property and Casualty Consulting Actuaries.

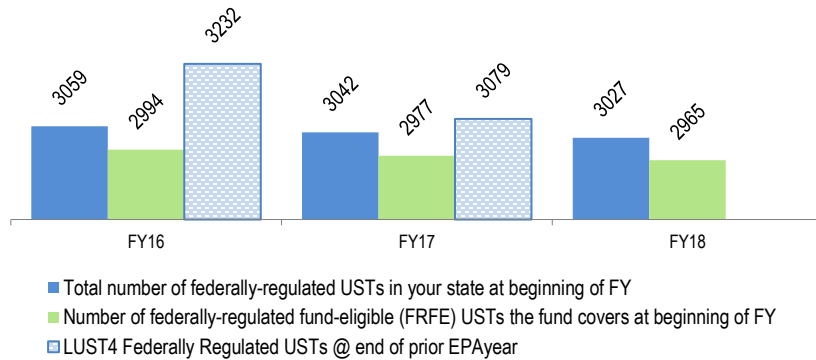
*an example, some states have questioned whether ultra-low-sulfur gasoline and diesel products can be safely stored in fiberglass reinforced plastic tanks, or whether this poses a higher risk of tank failure. However, the risks relevant to one state are often not relevant to another state due to differences in tank demographics or for soil composition or geological reasons. **Therefore, it may be useful for the PRCF to collect this data independently so that this could be studied further.***”

**Action:** The EPA concurs with this recommendation and would like to discuss how we can support efforts to determine the relative risks of South Dakota’s tank systems and/or fuel types. The EPA has supported this effort in other states in Region 8. We would like to discuss this issue during South Dakota’s and EPA Region 8’s 2018 end-of-year review.

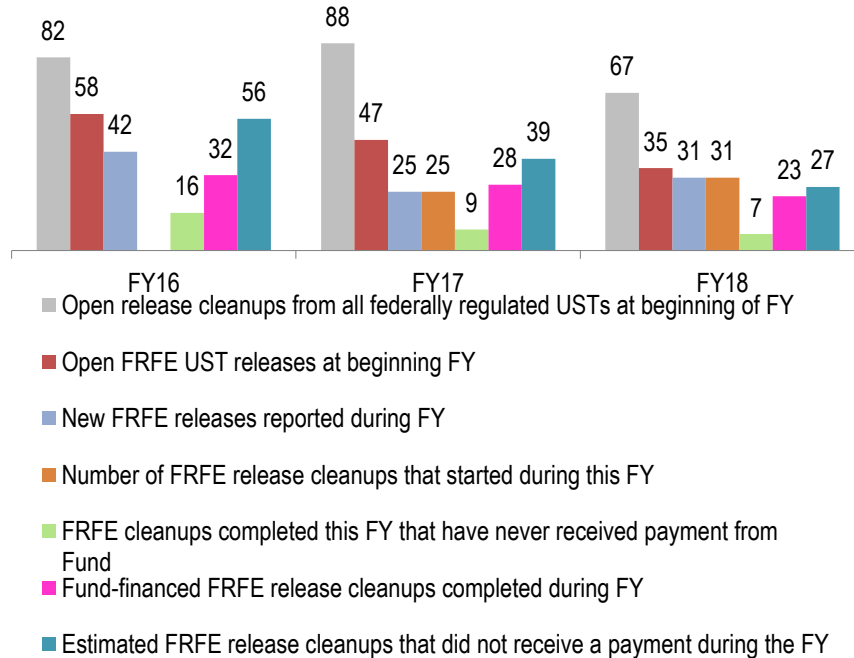


# Appendix 1: Data and Charts from South Dakota State Fund Updated for 2018

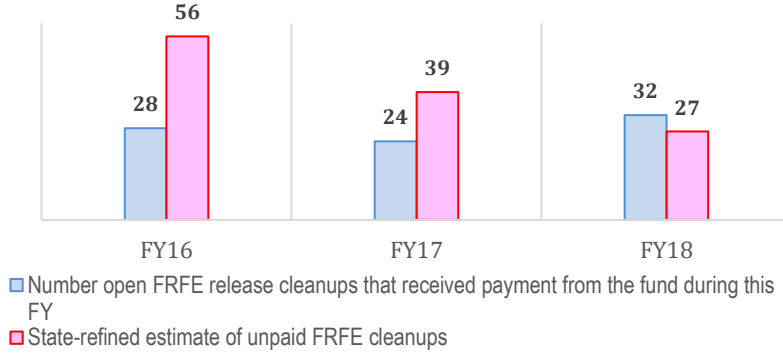
## 1. USTs Covered By The Fund



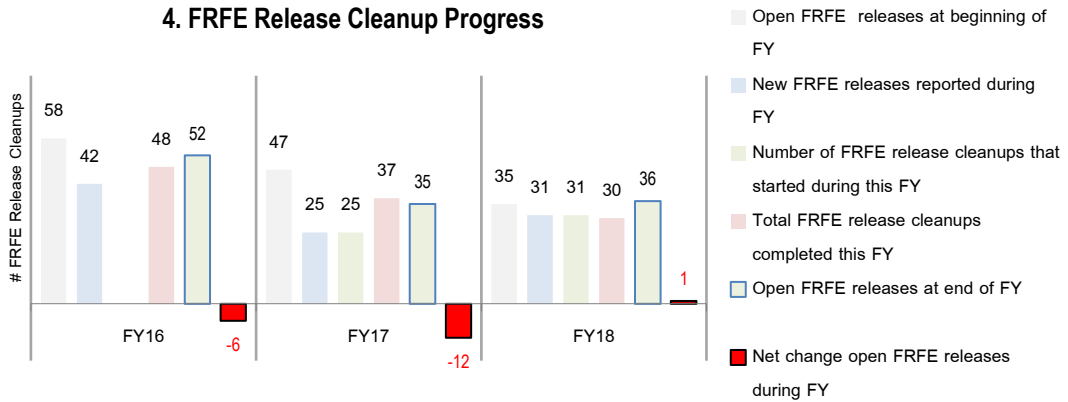
## 2. Fund's Share Of All Open FRFE UST Release Cleanups



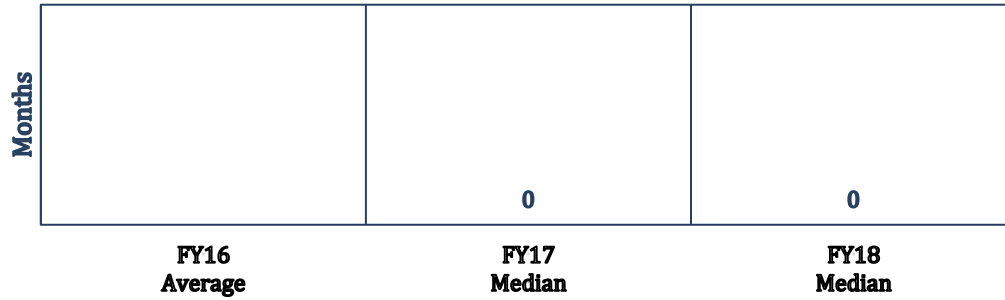
### 3. Paid & Estimated Unpaid FRFE UST Release Cleanups



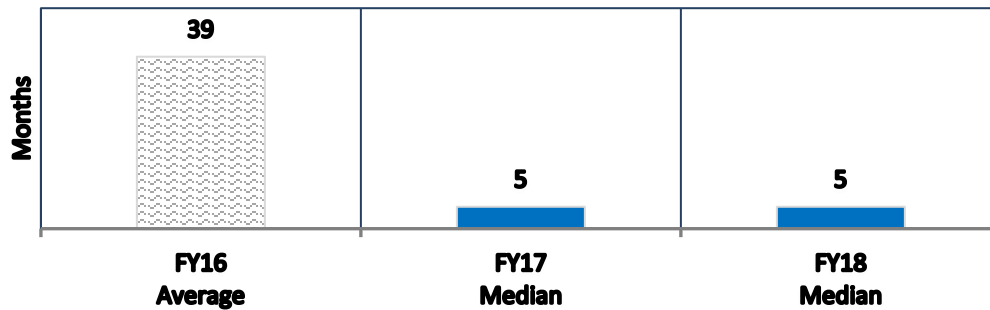
### 4. FRFE Release Cleanup Progress



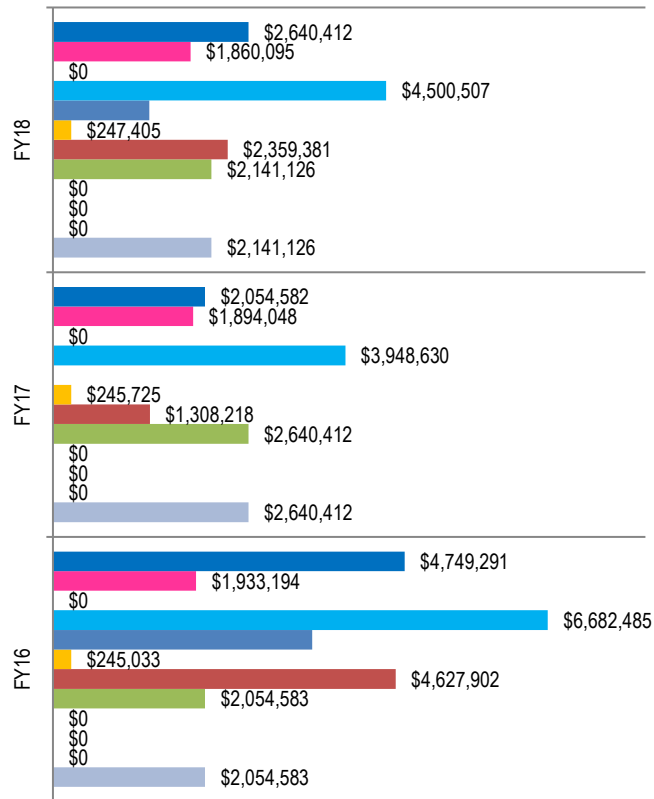
**5a. Time to Start New FRFE Cleanups**  
**Median months from release report to new remediation start**



**5b. Time to Complete Ongoing Cleanups**  
**Median months from release report to cleanup closure.**

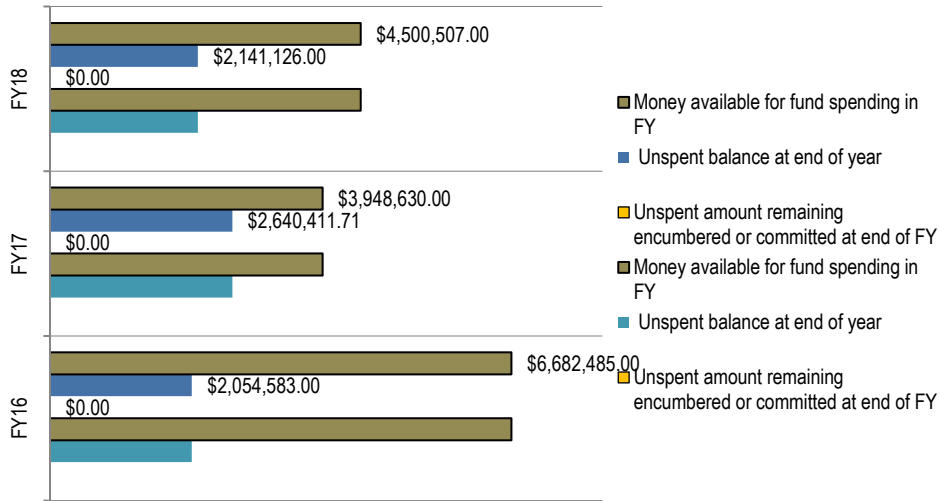


**Chart 6. Balance, Income and Spending**

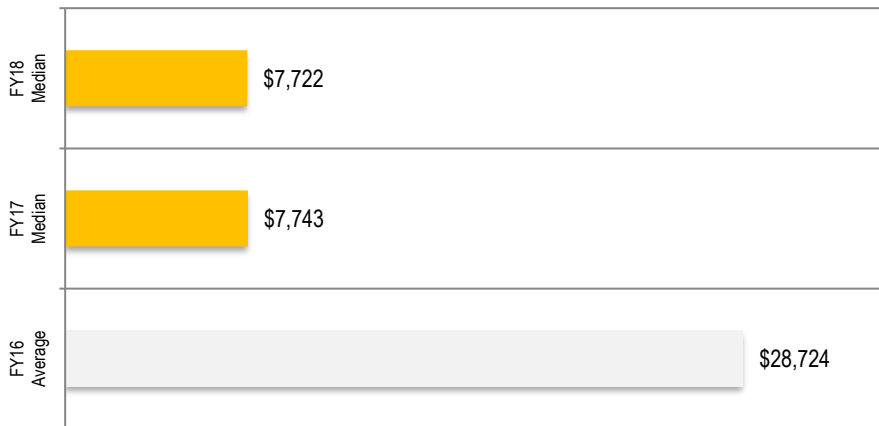


- Cash balance at beginning of year
- Total fund income
- Total dollar value of controls on fund spending during this FY
- Money available for fund spending in FY
- Transfers out of the fund during this FY
- FRFE cleanup reimbursements and direct payments to FRFE cleanup contractors
- Total spending
- Unspent balance at end of year
- Unspent amount remaining encumbered or committed at end of FY
- Additions to end of year balance
- Reductions to end of year balance
- Adjusted end of year balance

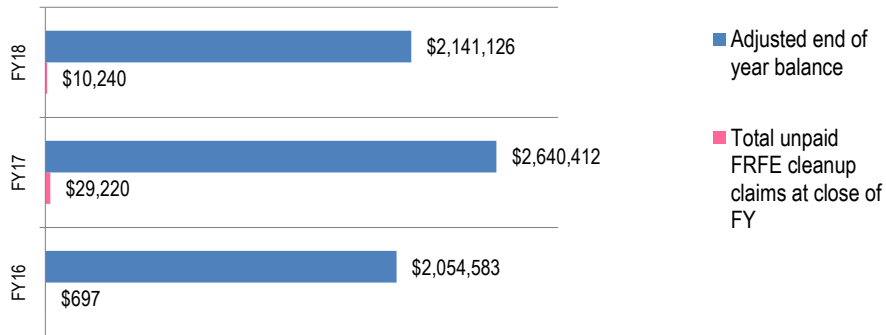
### 7. Money Available for Spending, Unspent Balance at EOY and Unspent Amount Remaining Encumbered at EOY



### 7a. **Median** cost of fund-financed FRFE release cleanups completed this FY



### 8. EOY Cash Balance And Unpaid Claims



Mailing List  
2019 PRCF Annual  
Insurance Meeting

Dawna Leitzke  
SD Petroleum Marketers Assoc  
PO Box 1058  
Pierre SD 57501-1058

NAIFA SD  
1609 S Monticello Ave  
Sioux Falls SD 57106

Ronald L Johnson  
Western Dakota Insurors  
PO Box 1300  
Rapid City SD 57709

Eric Lehrer  
Federated Insurance  
121 E Park Square  
Owatonna MN 55060

Kristil Smit  
SD Farm Bureau  
PO Box 1426  
Huron SD 57350-1426

Pat Rounds  
PMMIC  
PO Box 7528  
Urbandale IA 50323

Brenda Forman  
SD Assoc of Cooperatives  
116 N Euclid Ave  
Pierre SD 57501

Yvonne Taylor  
SD Municipal League  
208 Island Dr  
Ft Pierre SD 57532

Kathy Zander  
SD Agri-Business Association  
320 East Capitol Avenue  
Pierre SD 57501-2519

Bob Wilcox  
SD Association of County Commissioners  
211 E Prospect Ave  
Pierre SD 57501

Myron Rau  
SD Trucking Association  
PO Box 89008  
Sioux Falls SD 57109-9008

Curt Everson  
SD Bankers Association  
PO Box 1081  
Pierre SD 57501

Michelle Kleven  
SD Association of Realty  
PO Box 1175  
Pierre SD 57501

Carolyn Hofer  
Independent Insurance Agents of SD  
305 Island Dr  
Ft Pierre SD 57532-7304





DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

November 12, 2019

denr.sd.gov

~~Dawna Leitzke  
SD Petroleum Marketers Assoc.  
PO Box 1058  
Pierre, SD 57501-1058~~

Re: Annual Meeting- Integration of Private Insurance as Primary or Secondary Risktaker

Dear Dawna:

The South Dakota Petroleum Release Compensation Board will be holding its annual meeting with industry officials on December 12, 2019. The purpose of the meeting is to determine the availability and affordability of private insurance for pollution coverage. The Board will hear oral comments from those in attendance, and written, submitted comments will be read into the record. I am requesting your comments regarding the practicality of transferring some or all of the pollution coverage for petroleum storage tanks to the private sector.

This meeting is mandated by SDCL 34A-13-48, which requires that the Petroleum Release Compensation Board endeavor to integrate private insurance as the primary or secondary risk taker. The results of the meeting will be summarized and submitted to the Governor and 2020 Legislature in early January.

The insurance meeting will commence at 1:30 p.m. CST in the Matthew Training Center on the first floor of the Foss Building at 523 East Capitol, Pierre, SD. The amount of time dedicated to this matter will depend on the response from industry officials and the general public.

A copy of last year's report is enclosed for your review. The Board's recommendation last year was to continue the program under the same process that is presently in place.

Thank you for your interest on this issue. Please let me know if you plan to attend the meeting so that I can assure that there is sufficient time scheduled to hear all comments. If you have any questions or would like additional information, please contact me at 605-773-3769.

Sincerely,

Alan W. Bakeberg  
Petroleum Release Compensation Fund

Enclosure

cc: PRC Board, w/enclosure

Larry Deiter- Director, Division of Insurance, DLR w/enclosure



**DEPARTMENT OF ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182  
[denr.sd.gov](http://denr.sd.gov)

**SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL  
RESOURCES**

**2018 ANNUAL REPORT**

**CURRENT STATUS OF THE  
PETROLEUM RELEASE COMPENSATION FUND  
AND  
AVAILABILITY OF PRIVATE INSURANCE**

**RECOMMENDATION**

The Petroleum Release Compensation Board's recommendation is to continue having the South Dakota Petroleum Release Compensation Fund (PRCF) serve as the primary financial assurance mechanism in South Dakota as that will continue to ensure a level playing field for all owners and operators of regulated petroleum underground storage tanks who must meet the federal financial assurance requirements. In addition to providing the financial responsibility mechanism for federally regulated petroleum underground storage tanks (UST), the PRCF also covers cleanup costs for petroleum tanks that are not required to have a financial responsibility mechanism, such as aboveground petroleum tanks and non-regulated gasoline, diesel fuel, and heating oil tanks. Over the past ten years, 58% of the nearly \$6.5 million spent by the PRCF on cleanups has been for petroleum releases at sites that are not required to demonstrate financial assurance.

**BACKGROUND**

In 1984, Congress enacted federal legislation requiring the US Environmental Protection Agency (EPA) to develop regulations to address the installation, use, and management of petroleum underground storage tanks. The resulting regulations included requirements to upgrade or replace operating underground storage tanks by December 22, 1998. The regulations also required that corrective action be taken if there was a release from an underground storage tank. In response to concerns regarding future unfunded environmental damages, additional federal legislation was enacted, and regulations were adopted establishing federal underground storage tank financial responsibility requirements. Owners or operators of petroleum underground storage tanks were required to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by releases. Most sites are required to demonstrate financial responsibility of at least \$1,000,000 per occurrence.

With the enactment of the federal regulations, private insurance essentially abandoned the pollution liability market in the late 1980s. The insurance industry responded to these requirements by adopting "pollution exclusion" clauses in their policies. With private pollution liability insurance essentially unavailable, most of the underground storage tank owners had few, if any, options for demonstrating financial responsibility.

The South Dakota Petroleum Release Compensation Fund (PRCF) was established by the 1988 Legislature to fill the void left by private insurance, to financially assist tank owners with the cleanup costs of petroleum releases, and to meet the federal and state environmental financial responsibility requirements for regulated underground tank owners. The EPA has approved the PRCF as an acceptable mechanism for tank owners to demonstrate financial responsibility for corrective action and third-party compensation as required by state and federal law. EPA Region 8 further identified the PRCF as a "model program".

The PRCF cleanup coverage is comprehensive in that all petroleum tank sites, including abandoned tank sites and aboveground tank sites, as well as underground storage tanks, are covered. While other methods of demonstrating financial responsibility, such as self-insurance or private insurance, are available to a limited group, the PRCF is the only mechanism that is presently available to every petroleum tank owner or operator in the state.

A five-member advisory board appointed by the Governor makes recommendations on program policies. Revenues are generated by a \$0.02 per gallon tank inspection fee on petroleum products received in the state. The fee generates about \$17 million per year. In fiscal year 2019 the PRCF will receive \$0.004 per gallon of the fee, or about \$3.4 million per year, with the balance going to the Ethanol Fuel Fund and the Capital Construction Fund (CCF). SDCL 5-27-6 transfers 64 percent of the CCF deposits to the Water and Environment Fund (WEF). The WEF provides funding assistance for water and wastewater infrastructure projects that protect human health and the environment.

The PRCF provides reimbursement of cleanup expenses and third-party liability claims up to \$990,000 (\$1,000,000 less a \$10,000 deductible). Only necessary and reasonable cleanup expenses incurred after April 1, 1988, are eligible for reimbursement. Reimbursement for third party claims can only be made for certain petroleum releases reported after April 1, 1990. The PRCF also pays for all tank removal and cleanup costs incurred through the Abandoned Tank Removal Program, which was created by the 2000 Legislature (see SDCL 34A-13-49).

In 2005, Congress passed the Energy Policy Act, which included a new requirement that owners and operators of regulated underground storage tanks be trained to reduce spills and leaks. Since 2011, the PRCF has funded storage tank training at various locations throughout the state through a contractor. More than 2,150 people have attended the training, and South Dakota maintains a 99.5 percent training compliance rate for facilities operating underground storage tanks.

## **AVAILABILITY OF INSURANCE**

Pursuant to SDCL 34A-13-48, "the board [Petroleum Release Compensation Board] shall endeavor to integrate private insurance as the primary or secondary risk taker... ". This statute also requires the board to meet at least annually with members of the insurance industry who have registered with the board. The purpose of the meeting is to evaluate the availability of private insurance coverage for petroleum contamination cleanup and third party liability coverage. After meeting with the public on this matter, the board is required to report its findings to the Legislature by January 10th of each year. This year the meeting was held in Pierre, South Dakota on December 13, 2018.

### **Preparations for the Meeting**

In preparation for the meeting, written invitations were extended to members of the insurance industry and associations representing industry groups in South Dakota with a possible interest in the program. This year input was sought from the following representatives of insurance and associations:

- Independent Insurance Agents of South Dakota;
- Western Dakota Insurers;
- Federated Insurance Company;
- National Association of Insurance and Financial Advisors;
- Petroleum Marketers Management Insurance Company;
- South Dakota Truckers Association;
- SD Association of Realtors;
- SD Municipal League;
- SD Bankers Association;
- SD Association of County Commissioners;
- SD Petroleum & Propane Marketers Association;
- SD Association of Cooperatives;
- SD Agri-Business Association; and
- SD Farm Bureau.

### **Comments from Insurance Industry Representatives**

This year, written comments were received from Federated Insurance and Petroleum Marketers Management Insurance Company (PMMIC). The written comments from Federated Insurance indicate that they can provide pollution liability insurance for tank owners who meet their underwriting criteria and who purchase their property and casualty insurance coverage. Federated Insurance indicated there would be certain sites that would not be eligible for coverage due to concerns related to leaking tanks, existing contamination not fully defined, questionable tank or pipe quality, poor tank management practices, or accounts that do not purchase their property and casualty program. The written comments from PMMIC indicate that if South Dakota decides to integrate private insurance as a risk taker, they are interested in providing insurance coverage for petroleum tanks in South Dakota.

### Discussion

Since its enactment in 1988, the PRCF has provided more than \$90 million for corrective action at more than 4,750 petroleum release sites in South Dakota. With guidance from the five-member citizen advisory board, the PRCF has accomplished this over the past 30 years while reducing annual cleanup costs from a high of nearly \$7 million to less than \$600,000, and reducing staff from a high of 15 to the current staff of 5. Additionally, over this time period the revenue allocations to the PRCF have been reduced from a high of \$0.02/gallon to \$0.004/gallon.

Although much of the past and ongoing efforts have been to finance corrective action at old release sites, the PRCF's primary mission continues to be that of providing ongoing financial assurance for federally regulated underground storage tank owners so that they can demonstrate financial responsibility as required by state and federal law. In addition to providing the financial responsibility mechanism for federally regulated petroleum UST owners, the PRCF also covers cleanup costs for petroleum tanks that are not required to have a financial responsibility mechanism, such as aboveground petroleum tanks, and non-regulated gasoline, diesel fuel, and heating oil tanks. As shown in the table below, 58% of the nearly \$6.5 million spent by the Fund on cleanup over the past ten years has been for costs associated with sites that are not required to demonstrate financial assurance.

SFY	Non-Regulated Tanks		Federally Regulated Tanks		Total
	Amount	Percent	Amount	Percent	
2009	\$340,111	39.3	\$525,739	60.7	\$865,850
2010	\$383,313	53.1	\$338,174	46.9	\$721,487
2011	\$290,996	68.5	\$133,949	31.5	\$424,944
2012	\$557,346	80.6	\$134,190	19.4	\$691,536
2013	\$267,674	53.2	\$235,111	46.8	\$502,785
2014	\$386,490	53.8	\$331,436	46.2	\$717,926
2015	\$295,647	50.3	\$291,941	49.7	\$587,588
2016	\$342,523	57.1	\$256,998	42.9	\$599,521
2017	\$550,546	68.8	\$250,235	31.2	\$800,781
2018	\$303,886	55.1	\$247,405	44.9	\$551,291
Totals	\$ 3,718,532	58.0	\$ 2,745,178	42.0	\$ 6,463,709

While there has been a significant reduction in claims since the early 2000s, the Petroleum Release Compensation board believes that this trend will reverse in the near future due to the age of the tank systems in South Dakota and new regulations for underground storage tanks. Currently the average age of tank systems in South Dakota is about 25 years. While there are no regulatory or

industry standards dictating or establishing the useful life of a petroleum tank system, the longer tank systems are in service the more likely they are to fail and leak. In addition to the aging tank systems, the Environmental Protection Agency recently enacted new regulations for underground storage tank systems that the State must implement by 2021. These regulations will require many of the existing underground storage tank systems to upgrade certain components, which will likely result in the discovery of petroleum releases that are currently unknown.

In reviewing the letters from Federated Insurance and Petroleum Marketers Management Insurance Company, and considering testimony and discussion at its meeting, the Board recognizes that private insurance may be available for some tank owners who meet qualifications of the insurance companies. However, tank owners not required by regulation to have a financial responsibility mechanism would not likely purchase insurance, and as a result many would not have the financial resources to pay for cleanups when a release occurs. The Board expressed concerns that dual coverage, risk selection practices and the uninsured sites would likely place a greater burden on some operators while shifting proportionally higher financial liability for the higher risk sites to the State. The Board concluded they could find no reason to change its recommendation from last year. The Board saw no advantage to the public or tank owners on going to private insurance to meet the financial assurance requirements for underground petroleum tank owners.





RECEIVED

NOV 25 2019

Division of Financial  
& Technical Assistance

November 20, 2019

Alan W. Bakeberg  
Petroleum Release Compensation Fund  
Joe Foss Building  
523 East Capital Ave  
Pierre, SD 57501-3182

Dear Mr. Bakeberg,

We received your annual letter regarding the availability and affordability of private insurance for pollution coverage.

As in the past, Federated continues to be a leading insurer of petroleum marketers and convenience stores. We provide specific products and services to meet the needs of this industry. Our PetroSHIELD® program continues to provide key coverages needed by businesses in this industry. As in the past, Federated continues to have exclusive recommendations with the Petroleum Marketers Association of America (PMAA), and the South Dakota Petroleum & Propane Marketers Association (SDPMA).

With respect to pollution coverage, Federated markets products primarily through its in-house agency, Primary Source Insurance, and utilizing carriers such as Great American, Berkley and AIG. We also partner with brokers and their carriers Colony, Hudson, and XL Environmental to meet certain client needs.

While we continue to develop and maintain relationships with carriers that provide environmental coverage for our petroleum marketers and convenience stores, Federated continues to support State Funds as long as they provide our clients with adequate protection and remain financially sound. In many states, this continues to be a concern.

As in the past, if the State of South Dakota would have phased PRCF out of existence at some point in time, we feel that the private insurance industry would likely be available and affordable for most of our property and casualty clients.

(Continued)

However, there would be sites and certain accounts that likely would not be eligible for coverage under the programs we work with because of concerns including:

- Leaking tanks
- Sites where existing contamination is not yet fully defined
- Sites where tank quality or piping is questionable
- Accounts with poor tank management practices
- Accounts that do not purchase our property and casualty program

As long as the State of South Dakota continues using PRCF to provide storage tank cleanup and liability protection for our clients, our plan is to continue to offer additional environmental coverages to wrap around gaps left by the fund. We will continue to work with marketing representatives to discuss environmental issues with our clients to help them address their environmental needs.

If you have any further questions or concerns, please contact me. Thanks for your continued interest, Alan.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Lehrer', with a long horizontal flourish extending to the right.

Eric Lehrer  
Agency Manager

EL/lwp