
**SOUTH DAKOTA
PETROLEUM RELEASE COMPENSATION BOARD MEETING
Draft Meeting Agenda – April 23, 2020
Via Teleconference/Microsoft Teams
Pierre, South Dakota**

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, April 23, 2020 1:30 PM

- I. Call to Order and Declare Quorum
- II. Review and Approve/Disapprove Minutes of December 12, 2019, Board Meeting
- III. Public Comment Period
- IV. Report on the Financial Status of the Fund - *briefing by Alan Bakeberg (PRCF)*
- V. Underground Storage Tank 2021 Early Compliance Incentive
- VI. Other Business
- VII. Schedule of Future Meetings
- VIII. Adjourn

A limited number of phone lines are available to participate by phone in this meeting. Interested parties who wish to participate in the telephone conference/Microsoft Teams call should contact DENR at 605.773.3769 before 3:00 p.m. CDT on Wednesday, April 22, 2020 for dial in/Teams connection instructions

Minutes of the South Dakota Petroleum Release Compensation Board Meeting
December 12, 2019

The South Dakota Petroleum Release Compensation Board Meeting was called to order by Chairman Dennis Rowley at 1:30 P.M. on December 12, 2019, and was held in the Foss Building, Matthew Training Center. A quorum was declared with four board members present.

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

Others Present: Alan Bakeberg, John McVey, Kim McIntosh, Hunter Roberts, Terry Florentz and Vickie Maberry, DENR; Sarah Larson, 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 of the December 13, 2018 meeting. A motion was made by Dave Kallemeyn to approve the minutes. Bert Olson seconded the motion.

Alan Bakeberg introduced DENR Secretary Hunter Roberts.

Alan Bakeberg reported on the financial status of the fund and reviewed the October 2019 fund statistics report.

John McVey briefed the board on the Environmental Agency's Annual Soundness Review and approval of the PRCF for state fiscal year 2018. The data presented in the South Dakota FY 2018 Fund Soundness Workbook did not raise any concerns by EPA about the South Dakota State Fund soundness.

Alan discussed the changes to the final actuarial study report that was presented at the June 2018 meeting.

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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 is that many situations covered by the Fund would not be covered by private insurance. Bert Olson made a motion that the annual report to the Legislature be similar as the one submitted last year to maintain the PRCF as it is. Dave Kallemeyn seconded the motion. All voted in favor of the motion.

Under Other Business Dawna Leitzke raised the issue of the new underground storage tanks regulations that go into effect in October 2021, and that tank owners are likely to incur substantial costs for removing and replacing concrete in addition to the testing and equipment costs to comply with these regulations and asked the Board to consider some type of financial assistance and/or incentives for tank owners to act early and spread the work out. Discussion followed on the eligibility of surface removal/replacement for "tank pulling" with contaminated soil removal/disposal, ineligible surface removal/replacement for repairs of tank system components, equipment costs currently specifically excluded from reimbursement by statute, and how to incentivize/assist tank owners in complying with the 2021 regulations. Dave Kallemeyn made a motion for the DENR staff to meet with the petroleum tank stakeholders to discuss ways to incentivize/assist with meeting the new regulations and give the Board recommendations at the next Board meeting. Don Meyers seconded the motion. All voted in favor of the motion.

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Terry Florentz was introduced to the Board as the new DENR Tank Section Manager.

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.

Election of officers: David Kallemeyn made a motion to nominate the current officers in their positions to extend their terms for one year. Bert Olsen 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 19 or 26, 2020, June 18, 2020, September 15, 2020 (in Deadwood), and December 10, 2020.

The Board took a break at 3:15 P.M. and went into Executive Session at 3:30 for a litigation update. The Board came out of Executive Session at 4:03 P.M. Dave Kallemeyn moved to adjourn the meeting. Motion was seconded by Don Meyers. All voted in favor.

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>.

Dennis Rowley, Chairman

South Dakota
Petroleum Release Compensation Fund
First Quarter (Jan-Mar) 2020 Fund Statistics

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

Amount Paid Since Fund Began (4794 sites)	\$92.1 million
PRCF Balance	\$4,846,431
Amount of Tank Inspection Fee Distributed to PRCF last quarter	\$728,376
Claims Processed During Quarter (13 pay requests)	\$639,108
Avg. Days in Office for Claims Processed in Past Quarter	3 Days
<u>Current Involvement - Regular Program (Excluding ATP Sites)</u>	
Active Cases	36 Sites
Active/Monitoring Cases	23 Sites
Pending Cases (spill report not yet filed)	6 Sites
TOTAL	65 Sites
<u>Past Involvement - Regular Program (Excluding ATP Sites)</u>	
Closed-Active Cases	37 Sites
Closed-Inactive Cases (sites closed and all claims settled)	1,502 Sites
Closed-No Pymt Cases (sites reviewed, but closed without PRCF payment)	2,572 Sites
Total Regular Program Payments	\$80.5 million
Average Payment Per Site - Regular Program Only	\$52,400
<u>Abandoned Tank Removal Program</u>	
Total Applications (includes 271 applications that have been withdrawn)	3,551 Sites
Completed Sites (tanks removed)	3,257 Sites
Total Abandoned Tank Program Payments	\$11.5 million
Average Payment Per Site- Abandoned Tank Program	\$3,537
<u>Projected Future Obligations</u>	
Cost Remaining for Sites that have Received at Least One PRCF Payment	\$173,110
Projected Costs for Release Sites Where No Payment Has Yet Been Made	\$2,200,000
Estimated Remaining Costs for Abandoned Tank Removal Program	\$600,000

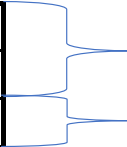
Breakdown of Payments Made to Date

Type of Facility	No. of Sites Receiving Payments to Date	Cleanup Payments Made to Date
Abandoned Sites (Includes ATP Sites)	3,432	\$19,203,598
Commercial, Co-op	152	\$10,060,928
Commercial, Petroleum	632	\$40,376,266
Commercial, End User	321	\$11,420,049
Farmers	4	\$65,977
Federal Government	4	\$86,580
Local Government	150	\$5,272,966
State Government	84	\$5,264,998
Non-Profit	13	\$285,117
Residential	2	\$21,878
	4,794	\$92,058,356

**Fiscal Year 2019 Financial Information
South Dakota Petroleum Release Compensation Fund**

Fund Balance 6/30/2018	\$2,141,126
FY19 TI Fee Revenue	\$3,317,003
FY19 Interest	\$34,570
FY19 Cost Recovery	\$160,000
FY19 Cleanup Expenditures	-\$1,784,961
FY 19 Admin. Expenses	-\$452,283
Fund Balance 7/1/2019	\$3,415,455

Reimbursement Cases	\$590,252	}	\$533,061	Regulated USTs
Abandoned Tank Program Cases	\$317,800		\$374,991	Non-Regulated Tanks
LUST Trust Reconciliation	\$876,909			Regulated USTs by Definition





2020 South Dakota Legislature
Senate Bill 17
ENROLLED

AN ACT

ENTITLED An Act to make an appropriation for the plugging and surface reclamation of natural gas wells and to declare an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. There is hereby appropriated from the petroleum release compensation fund the sum of seven hundred twenty-seven thousand seven hundred dollars (\$727,700), or so much thereof as may be necessary, to the Department of Environment and Natural Resources, for purposes of the plugging and surface reclamation of natural gas wells.

Section 2. The funds appropriated in section 1 of this Act may be expended solely for purposes of well plugging and surface reclamation activities required under rules promulgated by the Board of Minerals and Environment under § 45-9-11. The activities performed and the costs incurred shall be approved by the secretary of environment and natural resources before the commencement of the work.

Section 3. The secretary of the Department of Environment and Natural Resources shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with procedures prescribed in chapter 4-8.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.



UST Rules - 2018 Changes

This document summarizes the revised UST rules adopted by the State of South Dakota. Details are also posted at denr.sd.gov/tanks.

Tank Operator Training

- 1) All new owners/operators (Class A/B) must be trained within 30 days of assuming operation.
- 2) Class C operators must be trained prior to assuming duties.

Release Detection Equipment

Owners/operators must have electronic and mechanical components of their release detection equipment tested for proper functionality every year.

Owner/Operator Walk-Through Inspections (Class A/B)

- 1) Monthly inspections of release detection and spill prevention equipment.
- 2) Annual inspections of secondary containment sumps.
- 3) Maintain walk-through inspection records for one year, including an inspection checklist verifying proper operation and a description of activities taken if corrective action is required. The initial walk-through inspection must be completed prior to October 13, 2021.

Secondary Containment Equipment

Owners/operators with containment sumps used for the interstitial monitoring of piping must have equipment tested for liquid tightness every three years. The initial testing must be completed prior to October 13, 2021.

Notification Required

Notification is now required 30 days prior to switching to fuels greater than 10% ethanol or greater than 20% biodiesel. Documentation of system compatibility with the new product must be submitted with the notification form.

Spill Prevention Equipment

Owners/operators must have spill prevention equipment (spill buckets or catchment basins) tested for liquid tightness every three years. The initial testing must be completed prior to October 13, 2021.

Overfill Prevention Equipment

Owners/operators must have overfill prevention equipment (overfill valves, ball float valves, or overfill alarms) tested for proper functionality every three years. The initial testing must be completed prior to October 13, 2021.

Ball-Float Valves

Ball float valves have been eliminated as an overfill protection option for new installations and upgrades. Existing ball float valves will be allowed to remain in use, provided functionality can be documented before October 13, 2021.

Emergency Generator Tanks

Release detection is now required for emergency generator tanks in addition to previously existing requirements.

ARTICLE 74:56

STORAGE FACILITIES -- REMEDIATION

Chapter
74:56:01

Underground storage tanks (UST)

74:56:01:42. Release investigation and confirmation. Unless corrective action is initiated by the owner or operator or is otherwise directed by the department, all suspected releases requiring reporting under § 74:56:01:40 must be immediately investigated by the owner or operator using one of the procedures listed in this section. If one of these methods confirms a release, the owner and operator must comply with the requirements for corrective action in §§ 74:56:01:44 to 74:56:01:51, inclusive. The methods are as follows:

(1) A site-specific investigation, under the direction of the department, of the suspected release incident to determine if a release has occurred;

(2) In the case of an UST system that has secondary containment, an investigation of a possible release into the interstitial area between the UST and the secondary barrier using procedures that will determine if the interstitial monitoring is working properly;

(3) In the case of a failed tank or piping tightness test;

(a) A check of inventory records in accordance with the requirements in subdivision 74:56:01:26(2) to detect a discrepancy that indicates a release may have occurred;

(b) Retesting the piping within seven days after the initial report to the department in accordance with the requirements in subdivision 74:56:01:26(1) to determine if a release may have occurred;

(c) Retesting the tank within seven days after the initial reporting to the department in accordance with the requirements in subdivision 74:56:01:26(1) to determine if a release may have occurred after the top of the tank has been excavated and all loose fittings, vent pipes, or other equipment have been checked, replaced, or tightened; and

(d) Laboratory analysis of soil samples for regulated substances in the unsaturated zone and, if applicable, visual inspection of the groundwater under the UST system;

(4) In the case of a discrepancy during inventory reconciliation in accordance with subdivision 74:56:01:26(2) or any other suspected release, an investigation conducted in the following manner:

(a) A tightness test of the tanks and piping in accordance with the requirements in subdivision 74:56:01:26(1) that is conducted within seven days after the initial report to the department to determine if a release may have occurred; and

(b) Laboratory analysis of soil samples for regulated substances in the unsaturated zone and, if applicable, visual inspection of the groundwater under the UST system; or

(5) Any other investigative procedure that is no less stringent than any of the procedures in subdivisions (1) to (4), inclusive, of this section and is approved for the UST system by the department.

34A-13-27. Fund expenditures. Money in the fund may only be expended or obligated:

- (1) To administer the petroleum release compensation program established in this chapter;
- (2) For any administrative costs and costs of corrective action taken by the fund, including investigations, legal actions, consulting costs, and other necessary costs;
- (3) For any costs of recovering any expenses associated with corrective actions;
- (4) For training, testing, and certification of those who perform services to be reimbursed under this chapter;
- (5) For any costs paid to any state agency for services;
- (6) For research and studies designed to reduce releases and improve petroleum industry methods for storage and to develop information and knowledge to aid in cleanup;
- (7) To carry out inspections of tanks and to certify inspection persons who may perform approved inspections of tanks;
- (8) To purchase insurance for the purpose of limiting certain risks associated with providing fund coverage as deemed appropriate by the secretary of environment and natural resources;
- (9) For any service provider unless the director has determined that a conflict of interest exists between the consultant and the contractor that could affect the integrity of the cleanup activities;
- (10) For rule making; and
- (11) For training of board members and staff employed by the secretary of environment and natural resources.

Problem:

- Tank owners are likely to have suspected petroleum releases in the process of testing or replacing containment/spill prevention sumps and overfill devices.
- Suspected releases require a site-specific investigation to determine if a petroleum release has occurred.
- These site-specific investigations currently require drilling several borings near suspected release points (tanks/islands/piping) and can cost a tank owner \$5,000 to \$10,000.
- If a petroleum release is not discovered, these costs are not eligible for reimbursement from the PRCF.
- Currently the Department does not have good information to know which suspected releases require drilling and which may not.
- A study that gathered site-specific information on tank system components and management practices and compared that information to data from soil borings could help in the future to determine which suspected releases require drilling and which may not.

Study – PRCF pay for and perform Site-Specific Investigation and assessment when there is a Suspected Release discovered as a result of testing or repairs performed to comply with the new regulations. If the Site-Specific Investigation identifies that a release has occurred and additional corrective action is necessary, that work will be required of the tank owner and follow the regular reimbursement process.

- Start - June 1, 2020
- End - June 30, 2021
- Limit - First 200 sites (equivalent of ~\$1,000,000 at average costs of \$5,000/site assessment.)
- To qualify tank owners must have a suspected release discovered while testing or repairing/replacing equipment to come into compliance with the new rules that go into effect October 13, 2021.
- Tank owners must provide documentation that their tank system is in compliance with the new rules by June 30, 2021.
- Tank owners must cooperate with DENR and provide information requested as part of the study, i.e. tank and piping ages and types, compliance and testing records, etc.
- Department will create a ranking system to compare tank system construction, operation, and management to the environmental assessment results.
- Ideally the study results could help in the future to determine which suspected releases require drilling and which may not.

April 2020							May 2020							June 2020							July 2020							August 2020							
SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	
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September 2020							October 2020							November 2020							December 2020							January 2021								
SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA		
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	6	7	8	9	10	11	12	4	5	6	7	8	9	10	8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9	
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Deadwood in Conjunction w/PMA Conf

February 2021							March 2021							April 2021							May 2021							June 2021									
SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA			
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