



Administration of the Petroleum Tank Release Cleanup Fund

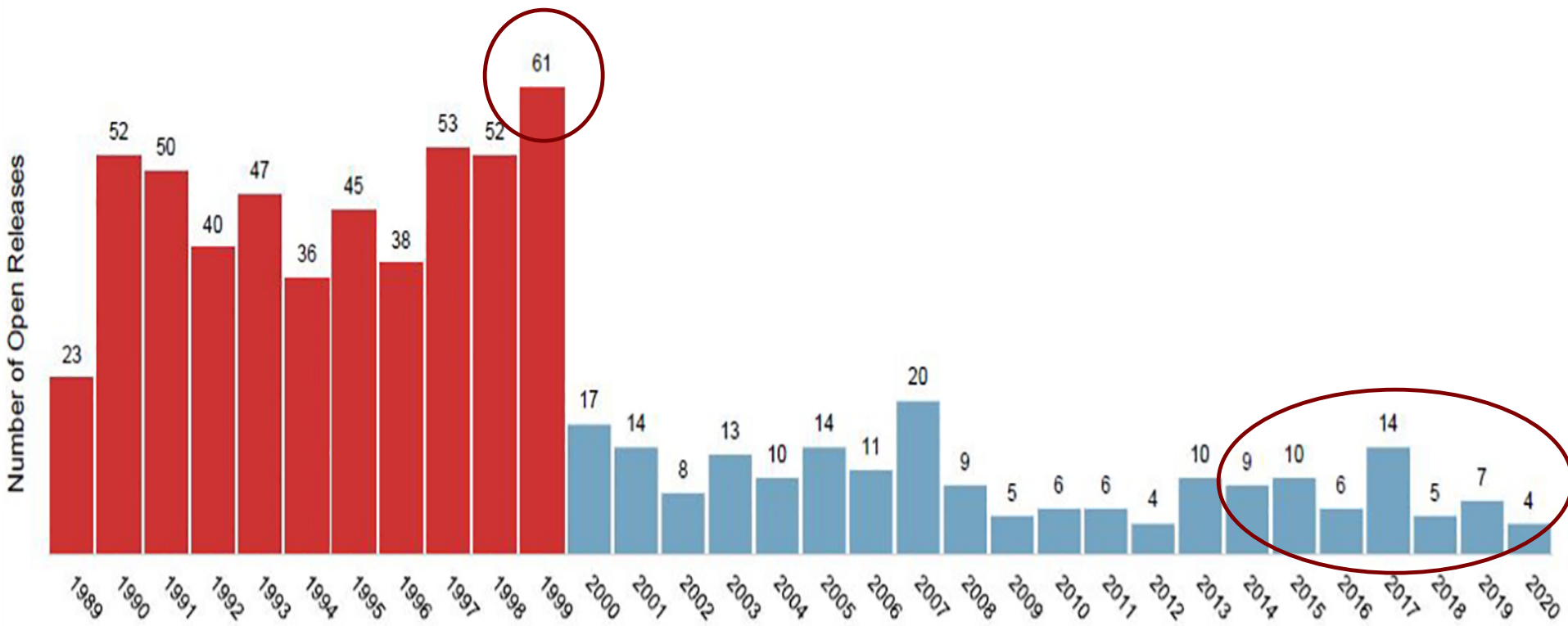
**Petroleum Tank Release Compensation Board
Department of Environmental Quality
20P-01 • October 20, 2021**

About the Fund

- Created in 1989
 - Three-quarters of a cent per gallon
 - Revenue around \$7 million annually
 - Supported cleanup of around 1,600 releases
 - Around 900 known releases remaining
 - Overseen by seven-member board
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Figure 5

Open Releases by Year of Discovery: 1989-2020



Audit Objective

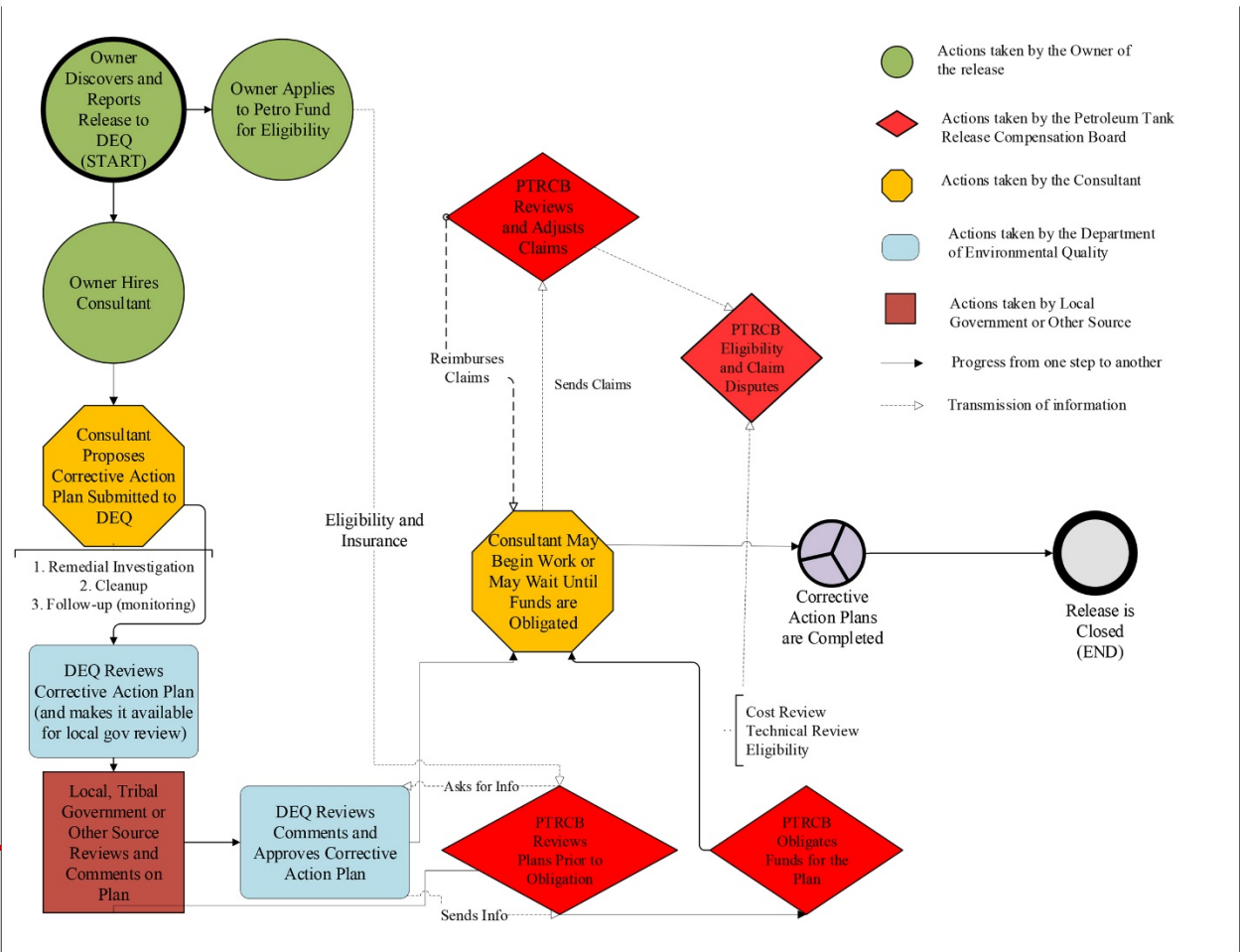
Are the roles and responsibilities of the Department of Environmental Quality and the Petroleum Tank Release Compensation Board appropriately defined and adhered to by all parties to ensure the timely and cost-effective remediation of petroleum leaks?

Figure 6
Current Process to Bring a Release to Closure

The flowchart illustrates the process to bring a release to closure. It begins with the Owner discovering and reporting the release to the DEQ (START). The Owner then applies to the Petro Fund for eligibility and hires a consultant. The consultant proposes a corrective action plan to the DEQ. The DEQ reviews the plan and makes it available for local government review. The local government reviews and comments on the plan. The DEQ then reviews the comments and approves the corrective action plan. The PTRCB reviews the plan prior to obligation. The PTRCB then obligates funds for the plan. The consultant may begin work or wait until funds are obligated. The PTRCB reviews and adjusts claims, and the PTRCB reviews eligibility and claim disputes. The PTRCB reimburses claims. The process ends with the release closed (END).

Legend:

- Actions taken by the Owner of the release (Green circle)
- Actions taken by the Petroleum Tank Release Compensation Board (Red diamond)
- Actions taken by the Consultant (Yellow octagon)
- Actions taken by the Department of Environmental Quality (Blue rounded rectangle)
- Actions taken by Local Government or Other Source (Brown rounded rectangle)
- Progress from one step to another (Solid arrow)
- Transmission of information (Dashed arrow)



Board Review of Plans May Follow DEQ Approval

- Board's "technical review" of plans includes remediation techniques and methods
 - Can be confusing if department approves a plan, then board declines to reimburse owner
 - Statute suggests that prior to final approval is the appropriate time for the board to review plans
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Recommendation #1:

Board should work with department **during corrective action plan development** to verify eligibility, assure fund availability, and provide other input **prior to final plan approval** by the department.

Cleanup: What is “necessary”?

- Board reviews plans for cost, and technical details
 - Department has already approved plan
 - Statute discusses “reasonable, actual, necessary” but terms aren’t defined
 - Board has never engaged third-party review
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Technical oversight ill-defined

- Slower approval of work
 - Mixed messaging to owners from state
 - Redundant use of staff time and resources
 - “Necessary”: Included in department-approved corrective action plan
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Recommendation #2:

Legislature amend statute to clarify 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.

Existing Cost Controls vs. Competitive Bidding

- Board applies cost controls at two points in process:
 - * Before obligating funds
 - * After a task is complete
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Competitive Bidding Would Save Significant Board Time, Could Lower Project Costs

Consultant	Invoiced Cost to Complete Task	Maximum Allowable Rate	Competitive Bidding Cost to the Fund
A	\$155	\$178	\$155
B	\$160		
C	\$180		

Competitive Bidding Common Across State Government

- DEQ uses competitive bids or limited solicitations for other types of projects
 - Board requires consultants to bid \$2,500 subcontracts
 - Competitive bidding would diminish board's need to concern itself with cleanup details
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Recommendation #3:

Board work with DEQ to develop a process for competitive bidding of remediation projects, in accordance with existing state procurement laws.

Future of the Fund

- A decade of cleanups to go?
 - Law requires biennial reporting
 - Board could be more proactive in its analysis of future options
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Other states have moved away from pure public assurance model

- Privatized state assurance fund
 - Fund participation optional
 - Annual review of fund with recommendation to legislature
 - Regular sunset reviews by legislature
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Recommendation #4:

Board work with DEQ to seek legislation that prepares the fund for the eventual closure of all historic underground storage tank releases in Montana.



Questions?