

HOUSE BILL NO. 423
INTRODUCED BY GILBERT, SPRING

IN THE HOUSE

FEBRUARY 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
FEBRUARY 13, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
FEBRUARY 15, 1993	SECOND READING, DO PASS.
FEBRUARY 16, 1993	ENGROSSING REPORT.
FEBRUARY 17, 1993	THIRD READING, PASSED. AYES, 98; NOES, 2.
FEBRUARY 18, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 45; NOES, 3.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 423
2 INTRODUCED BY Dillant Spring
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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
5 PETROLEUM TANK RELEASE COMPENSATION BOARD HEARING
6 REQUIREMENTS FOR REIMBURSEMENT OF ELIGIBLE COSTS; AND
7 AMENDING SECTION 75-11-309, MCA."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 75-11-309, MCA, is amended to read:

11 "75-11-309. Procedures for reimbursement of eligible
12 costs. (1) An owner or operator seeking reimbursement for
13 eligible costs and the department shall comply with the
14 following procedures:

15 (a) If an owner or operator discovers or is provided
16 evidence that a release may have occurred from his the
17 owner's or operator's petroleum storage tank, he the owner
18 or operator shall immediately notify the department of the
19 release and conduct an initial response to the release in
20 accordance with state and federal laws and rules to protect
21 public health and safety and the environment.

22 (b) The owner or operator shall conduct a thorough
23 investigation of the release, report the findings to the
24 department, and, as determined necessary by the department,
25 prepare and submit for approval by the department a

1 corrective action plan that conforms with state, tribal
2 (where applicable), and federal corrective action
3 requirements.

4 (c) (i) The department shall review the corrective
5 action plan and forward a copy to a local government office
6 and, where applicable, a tribal government office with
7 jurisdiction over a corrective action for the release. The
8 local or tribal government office shall inform the
9 department if it wants any modification of the proposed
10 plan.

11 (ii) Based on its own review and comments received from
12 a local government, tribal government, or other source, the
13 department may approve the proposed corrective action plan,
14 make or request the owner or operator to modify the proposed
15 plan, or prepare its own plan for compliance by the owner or
16 operator. A plan finally approved by the department through
17 any process provided in this subsection (c) is the approved
18 corrective action plan.

19 (iii) After the department approves a corrective action
20 plan, a local government or tribal government may not impose
21 different corrective action requirements on the owner or
22 operator.

23 (d) The department shall notify the owner or operator
24 and the board of its approval of a corrective action plan.

25 (e) The owner or operator shall implement the approved

1 plan. The department may oversee the implementation of the
2 plan, require reports and monitoring from the owner or
3 operator, undertake inspections, and otherwise exercise its
4 authority concerning corrective action under Title 75,
5 chapter 10, parts 4 and 7, and other applicable law and
6 rules.

7 (f) The owner or operator shall document in the manner
8 required by the board all expenses incurred in preparing and
9 implementing the corrective action plan. The owner or
10 operator shall submit claims and substantiating documents to
11 the board in the form and manner required by the board. The
12 board shall forward each claim and appropriate documentation
13 to the department. The department shall notify the board of
14 any costs that the department considers not reimbursable
15 because of any failure to meet the requirements of
16 subsection (2). The department shall inform the owner or
17 operator of any notification given to the board.

18 (g) The owner or operator shall document, in the manner
19 required by the board, any payments to a third party for
20 bodily injury or property damage caused by a release. The
21 owner or operator shall submit claims and substantiating
22 documents to the board in the form and manner required by
23 the board.

24 (2) The board shall review each claim received under
25 subsections (1)(f) and (1)(g), make the determination

1 required by this subsection, inform the owner or operator of
2 its determination, and, as appropriate, reimburse the owner
3 or operator from the fund. Before approving a reimbursement,
4 the board shall affirmatively determine that:

5 (a) the expenses for which reimbursement is claimed:

6 (i) are eligible costs; and

7 (ii) were actually, necessarily, and reasonably incurred
8 for the preparation or implementation of a corrective action
9 plan approved by the department or for payments to a third
10 party for bodily injury or property damage; and

11 (b) the owner or operator:

12 (i) is eligible for reimbursement under 75-11-308; and

13 (ii) has complied with this section and any rules
14 adopted pursuant to this section.

15 (3) If an owner or operator disagrees with a board
16 determination under subsection (2), he the owner or operator
17 may submit a written request for a hearing before the board.
18 The hearing must be held at a meeting of the board or as
19 otherwise permitted under the Montana Administrative
20 Procedure Act no later than 120 days following receipt of
21 the request or at a time mutually agreed to by the board and
22 the owner or operator.

23 (4) The board shall obligate money for reimbursement of
24 eligible costs of owners and operators in the order that the
25 costs are finally approved by the board.

1 (5) (a) The board may, at the request of an owner or
2 operator, guarantee in writing the reimbursement of eligible
3 costs that have been approved by the board but for which
4 money is not currently available from the fund for
5 reimbursement.

6 (b) The board may, at the request of an owner or
7 operator, guarantee in writing reimbursement of eligible
8 costs not yet approved by the board, including estimated
9 costs not yet incurred. A guarantee for payment under this
10 subsection (5)(b) does not affect the order in which money
11 in the fund is obligated under subsection (4).

12 (c) When considering a request for a guarantee of
13 payment, the board may require pertinent information or
14 documentation from the owner or operator. The board may
15 grant or deny, in whole or in part, any request for a
16 guarantee."

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

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17 owner's or operator's petroleum storage tank, he the owner
18 or operator shall immediately notify the department of the
19 release and conduct an initial response to the release in
20 accordance with state and federal laws and rules to protect
21 public health and safety and the environment.

22 (b) The owner or operator shall conduct a thorough
23 investigation of the release, report the findings to the
24 department, and, as determined necessary by the department,
25 prepare and submit for approval by the department a

1 corrective action plan that conforms with state, tribal
2 (where applicable), and federal corrective action
3 requirements.

4 (c) (i) The department shall review the corrective
5 action plan and forward a copy to a local government office
6 and, where applicable, a tribal government office with
7 jurisdiction over a corrective action for the release. The
8 local or tribal government office shall inform the
9 department if it wants any modification of the proposed
10 plan.

11 (ii) Based on its own review and comments received from
12 a local government, tribal government, or other source, the
13 department may approve the proposed corrective action plan,
14 make or request the owner or operator to modify the proposed
15 plan, or prepare its own plan for compliance by the owner or
16 operator. A plan finally approved by the department through
17 any process provided in this subsection (c) is the approved
18 corrective action plan.

19 (iii) After the department approves a corrective action
20 plan, a local government or tribal government may not impose
21 different corrective action requirements on the owner or
22 operator.

23 (d) The department shall notify the owner or operator
24 and the board of its approval of a corrective action plan.

25 (e) The owner or operator shall implement the approved

1 plan. The department may oversee the implementation of the
2 plan, require reports and monitoring from the owner or
3 operator, undertake inspections, and otherwise exercise its
4 authority concerning corrective action under Title 75,
5 chapter 10, parts 4 and 7, and other applicable law and
6 rules.

7 (f) The owner or operator shall document in the manner
8 required by the board all expenses incurred in preparing and
9 implementing the corrective action plan. The owner or
10 operator shall submit claims and substantiating documents to
11 the board in the form and manner required by the board. The
12 board shall forward each claim and appropriate documentation
13 to the department. The department shall notify the board of
14 any costs that the department considers not reimbursable
15 because of any failure to meet the requirements of
16 subsection (2). The department shall inform the owner or
17 operator of any notification given to the board.

18 (g) The owner or operator shall document, in the manner
19 required by the board, any payments to a third party for
20 bodily injury or property damage caused by a release. The
21 owner or operator shall submit claims and substantiating
22 documents to the board in the form and manner required by
23 the board.

24 (2) The board shall review each claim received under
25 subsections (1)(f) and (1)(g), make the determination

1 required by this subsection, inform the owner or operator of
2 its determination, and, as appropriate, reimburse the owner
3 or operator from the fund. Before approving a reimbursement,
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7 (ii) were actually, necessarily, and reasonably incurred
8 for the preparation or implementation of a corrective action
9 plan approved by the department or for payments to a third
10 party for bodily injury or property damage; and

11 (b) the owner or operator:

12 (i) is eligible for reimbursement under 75-11-308; and

13 (ii) has complied with this section and any rules
14 adopted pursuant to this section.

15 (3) If an owner or operator disagrees with a board
16 determination under subsection (2), he the owner or operator
17 may submit a written request for a hearing before the board.
18 The hearing must be held at a meeting of the board or as
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23 (4) The board shall obligate money for reimbursement of
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6 (b) The board may, at the request of an owner or
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9 costs not yet incurred. A guarantee for payment under this
10 subsection (5)(b) does not affect the order in which money
11 in the fund is obligated under subsection (4).

12 (c) When considering a request for a guarantee of
13 payment, the board may require pertinent information or
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