

LEGISLATIVE REPORT



Title: 35th Annual Petroleum Cleanup Fund (PCF) Report

Year: 2023

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Date Reported: 1/15/2023

Committee: Vermont General Assembly

Authorizing Law #: 10 V.S.A.

Section #: §§ 1941(e), 1942(a), & 1942(b)

Executive Summary

This is the 35th annual report of the [Petroleum Cleanup Fund \(PCF\) Advisory Committee](#) and will provide a review of receipts and disbursements for fiscal year 2022, in accordance with 10 V.S.A. § 1941 and will evaluate the effectiveness of the PCF in meeting its legislative intent. In fiscal year 2022 the PCF continued to be the primary financial responsibility mechanism for Vermont underground storage tank (UST) owners, which is required by state and federal law. The PCF also provided financial resources to remediate petroleum contamination at schools, homes, businesses, farms, churches, public works facilities and in [233 towns throughout Vermont](#). The PCF funds remediation of releases that threaten public health and the environment. Since the inception of the fund, petroleum releases have been discovered at more than 4,000 properties ([3,226](#) of these have PCF payments – [see details](#)) with contamination discovered in drinking water wells, in the indoor air of homes and businesses, seeping into surface water and at dangerous levels in public utility lines. Without the PCF many Vermont businesses, homeowners and public entities would struggle to pay for expensive cleanups. Critical site cleanup work remains at nearly 1,000 properties contaminated by releases from petroleum USTs and aboveground storage tanks (ASTs). The continued success of the PCF depends upon the continued solvency of the fund.

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Key Takeaways

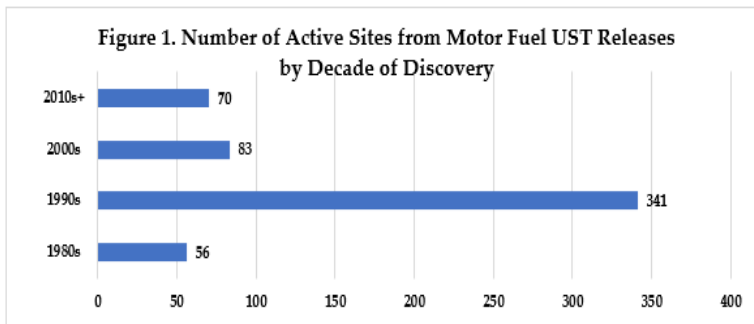
- The PCF is comprised of two accounts: a motor fuel, and a heating oil account. Each maintained a positive balance throughout the year, and the overall fund balance met the required financial assurance requirements for permitted motor fuel UST owners. The PCF's [Fund Balance Report](#) details receipts and disbursements and ending balances. Though the fund has a healthy balance, actuarial studies completed in 2005 and 2016 each found that the fund was "technically insolvent" since "projected liabilities exceeded assets of the fund."
- The motor fuel UST site backlog continues to pose a significant risk to fund solvency. However, prevention and cleanup efforts continue to outstrip new releases and over the past decade the total backlog of open contaminated sites has been reduced by 29%.
- The [AST Rules](#) are working. In the five years since the inspection requirements went into effect in August 2017, releases and cleanup costs are down by 18% _ respectively, as compared to the five preceding years. See Figure 3 and discussion on page 3.

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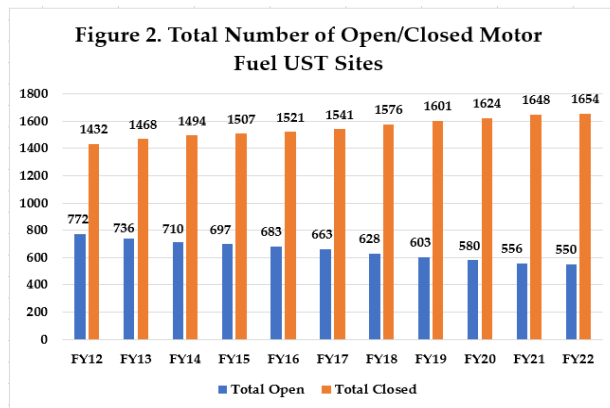
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Discussion

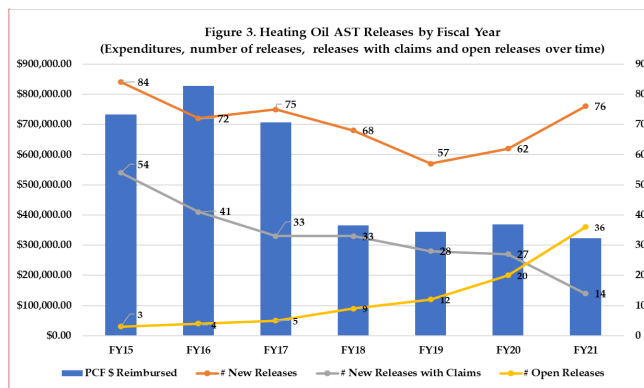
- Motor fuel UST backlog risk to solvency:** The motor fuel account has significant financial risk associated with the backlog of 550 open motor fuel UST sites. As shown in Figure 1, over 70% of these sites are over 20 years old, are from unprotected tanks, and are the most challenging and costly to cleanup. The legacy of these sites is that we have an estimated motor fuel tank liability of nearly \$50M based on the 2016 actuarial study. Many of these older sites now require groundwater reclassification and active cleanup under the amended [Groundwater Protection Rule and Strategy](#) that became effective Jul. 6, 2019.



- Motor fuel UST backlog progress:** In the past decade, this backlog has been reduced by 222 sites. Leak prevention efforts have considerably slowed new releases from motor fuel USTs, allowing site cleanups to outpace new contaminated sites as shown in Figure 2.



- The heating oil account:** For the fifth consecutive fiscal year, this account experienced significantly lower cleanup expenditures and a positive balance. Historically, this account has been unsustainable. This success appears attributable to increased prevention efforts through both new AST regulations and increased tank replacement financial assistance. The [AST Rules](#) were revised in August 2017 in response to [Act 76](#) and require tank inspections every three years and include a delivery prohibition to tanks that are “red-tagged” due to high risk of a fuel release. Over 400 reported, red-tagged tanks were repaired or replaced in fiscal year 2022, and over 2,950 since the rules were implemented in 2017; many of these received financial assistance. Figure 3 depicts a clear reduction in cleanup costs beginning in fiscal year 2018.

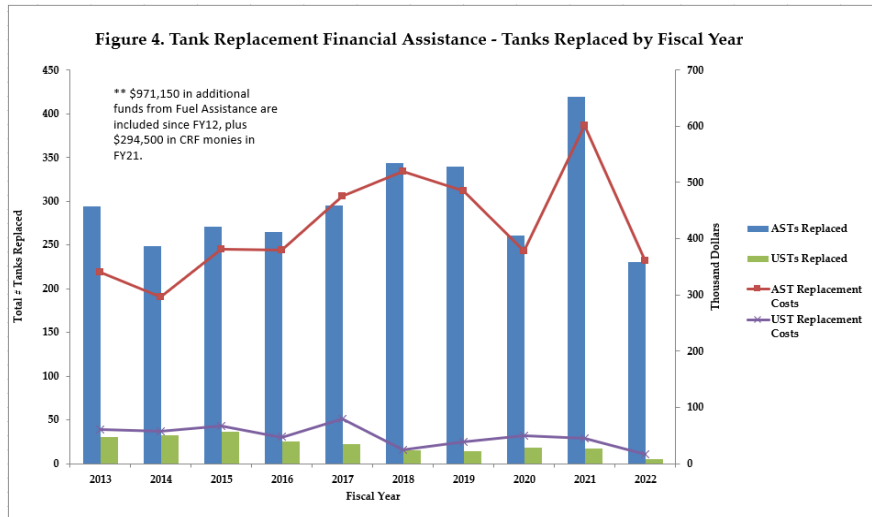


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- Tank Financial Assistance:** Providing financial assistance to vulnerable Vermonters is important to reduce risk to human health and the environment from releases and to prevent heating insecurity. Since inception, the PCF assistance program has funded the replacement or upgrade of 4,518 ASTs and removed 751 single-walled home heating oil USTs. Figure 4 shows data from the last decade.

AST Assistance: In fiscal year 2022, the PCF assisted lower income Vermonters by paying \$285,584 to replace 208 red-tagged ASTs; 58 awards totaling \$73,000 were unused, partially due to COVID-19 recipient health concerns. In addition, Federal LIHEAP monies totaling \$75,000 were used to replace 22 red-tagged ASTs; these monies were transferred to ANR from the Vermont Department of Children and Families.

UST Assistance: In fiscal year 2022, the PCF assisted lower income Vermonters by paying \$16,000 to remove 5 heating oil USTs; four switched to heating with ASTs. Two additional motor fuel UST loans were executed in fiscal year 2022 totaling \$325,815. There are now 34 active UST loans, 3 for heating oil tanks and 31 for motor fuel tanks, with a balance \$1,633,193 on Nov. 30, 2022.



- COVID-19/Fuel Price Impacts:** Revenue from motor fuel distributor licensing fees were down by 10.5% or around \$300,000 in fiscal year 2022 versus the pre-pandemic norm. This is an improvement over the 16.7% revenue drop in fiscal year 2021. The current reductions will likely continue due to less vehicle travel, primarily commuting, due to many sectors adopting liberal telework policies. Another factor in fiscal year 2022 was record retail gasoline prices that exceeded \$4.00 per gallon between March 2022 and August 2022.
- Recommended Statutory Changes to Chapter 59:** The PCF Advisory Committee recommends that 10 V.S.A. §1941(b) - (g) be amended as revised in this [summary](#). Recommendations include raising the \$25,000 coverage cap for AST releases, which has not been changed since passage in 1998; cleanups are becoming unattainable under the current limit. We also recommend raising the limits on tank replacement assistance grants for low-income Vermonters in response to inflationary pressure. Coverage is also being added for cleaning up spills of petroleum from non-tank sources where the responsible party is either unknown, or unwilling or unable to act, reducing demand on the Environmental Contingency Fund. Other changes are minor updates or “housekeeping.”

These changes would take effect on Jul. 1, 2023.

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