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May 13, 2015

The Honorable Judy Burges, Chair
Joint Legislative Audit Committee

The Honorable John Allen, Vice Chair
Joint Legislative Audit Committee

Dear Senator Burges and Representative Allen:

Our Office has recently completed an 18-month followup of the Department of Environmental Quality—Underground Storage Tanks Financial Responsibility regarding the implementation status of the 14 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in September 2013 (Auditor General Report No. 13-06). As the attached grid indicates:

- All 14 recommendations have been implemented, including one legislative recommendation.

Unless otherwise directed by the Joint Legislative Audit Committee, this concludes our follow-up work on the Department of Environmental Quality's efforts to implement the recommendations from the September 2013 performance audit report.

Sincerely,

Dale Chapman, Director
Performance Audit Division

DC:ss
Attachment

cc: Henry Darwin, Director
Department of Environmental Quality

Department of Environmental Quality— Underground Storage Tanks Financial Responsibility Auditor General Report No. 13-06 18-Month Follow-Up Report

Recommendation	Status/Additional Explanation
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Finding 1: Department continues to fail to ensure that underground storage tank owners and operators meet financial responsibility requirements

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| <p>1.1 The Department should continue its efforts to improve its financial responsibility program, including:</p> <ul style="list-style-type: none"> a. Recording UST owner and operator compliance with financial responsibility requirements in its database only after complete and accurate evidence of financial responsibility is received and following up with the owner, operator, or insurer to request the information when it is not provided; b. Improving the database usefulness by modifying programming to capture financial responsibility provided by operators, allowing staff to update financial responsibility information by facility, tracking when financial responsibility documentation is received, and fixing the function that deletes records when USTs have been permanently closed and no longer require financial responsibility or when an error has been made, such as linking the wrong owner identification number to a UST; c. Conducting outreach to educate stakeholders about financial responsibility requirements and mechanisms available to comply with the requirements; d. Ensuring department inspection and compliance staff have a clear understanding of the financial responsibility requirements and documentation needed to comply with them; e. Leveraging partnership opportunities to provide outreach to stakeholders and learn about strategies used in other states to improve financial responsibility compliance, which should be communicated to the Department's financial responsibility program manager; and f. Developing and implementing a strategic plan for the program. | <p>Implemented at 18 months</p>
<p>Implemented at 18 months</p>
<p>Implemented at 6 months</p>
<p>Implemented at 6 months</p>
<p>Implemented at 6 months</p>
<p>Implemented at 18 months</p> |
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Recommendation

Status/Additional Explanation

1.2 The Department should develop and implement updated policies and procedures that:

- a. Specify that UST registration should not be approved without evidence of financial responsibility;

Implemented at 18 months in a different manner

The Department has implemented a different process to ensure UST owners comply with state financial responsibility requirements. UST owners are required to complete a "Notification for Underground Storage Tanks Form" and provide it to the Department within 30 days of putting a UST into operation so that the Department may register, i.e., record, the UST in its UST database. The form includes information about the UST owner and operator, the UST system and its use, and the type of financial assurance mechanism that will be used to meet state financial responsibility requirements.

The Department has implemented a tracking mechanism that allows financial responsibility program staff to monitor when a notification form is received so that they may review the UST owner's records to determine whether evidence of financial responsibility has been provided. If not, the financial responsibility program staff will follow up with the UST owner using a standardized letter to inform the owner of the requirement and request that evidence of financial responsibility be provided within 15 days.

If evidence of financial responsibility is not provided as requested, the Department has established procedures for taking enforcement action against the UST owner. For example, auditors' review of department documentation found it had issued 112 enforcement notices to UST owners citing financial responsibility violations between March 2014 and February 2015. Further, since December 2014, the Department placed "stop use tags" on one or more USTs at eight facilities for financial responsibility and other UST violations such as failure to monitor a UST for releases at least once every month. These tags prevent a product deliverer from putting a regulated substance, such as fuel, into the tagged UST.

- b. Define expectations for communication and coordination between the UST registration and UST financial responsibility functions;

Implemented at 18 months

- c. Explain how to evaluate the evidence of financial responsibility to ensure it meets state and federal requirements;

Implemented at 18 months

- d. Establish expectations and time frames for monitoring UST owner and operator compliance with financial responsibility requirements; and

Implemented at 18 months

- e. Specify actions to be taken when a UST owner or operator does not meet the requirements.

Implemented at 18 months

Recommendation**Status/Additional Explanation**

1.3 The Department should ensure that its staff accurately determine whether financial responsibility evidence meets requirements and take appropriate and timely actions when UST owners and operators do not submit evidence of financial responsibility, when the evidence does not meet requirements, or when financial responsibility needs to be updated by:

a. Developing and implementing training for financial responsibility staff, including refresher training, and

Implemented at 6 months

b. Developing and implementing supervisory review practices.

Implemented at 6 months

1.4 The Legislature should consider modifying statutes to require insurance companies to inform the Department before and/or after UST financial responsibility insurance is terminated, canceled, or not renewed.

Implemented at 18 months

Laws 2015, Ch. 247, §3, requires that if insurance used to meet UST financial responsibility requirements is terminated or not renewed, the insurer must notify the Department within 30 days of the insurance termination or nonrenewal.