



General Assembly

**Amendment**

January Session, 2005

LCO No. 7395

\*SB0115107395SD0\*

Offered by:

SEN. STILLMAN, 20<sup>th</sup> Dist.

REP. ROY, 119<sup>th</sup> Dist.

To: Subst. Senate Bill No. 1151

File No. 313

Cal. No. 273

**"AN ACT REDUCING THE SULFUR CONTENT OF HOME HEATING OIL AND OFF-ROAD DIESEL FUEL."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 22a-449 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) The Commissioner of Environmental Protection shall, to the  
6 extent possible, immediately, whenever there is discharge, spillage,  
7 uncontrolled loss, seepage or filtration of oil or petroleum or chemical  
8 liquids or solid, liquid or gaseous products or hazardous wastes upon  
9 any land or into any of the waters of the state or into any offshore or  
10 coastal waters, which may result in pollution of the waters of the state,  
11 damage to beaches, wetlands, stream banks or coastal areas, or  
12 damage to sewers or utility conduits or other public or private  
13 property or which may create an emergency, cause such discharge,  
14 spillage, uncontrolled loss, seepage or filtration to be contained and

15 removed or otherwise mitigated by whatever method said  
16 commissioner considers best and most expedient under the  
17 circumstances. The commissioner shall also (1) determine the person,  
18 firm or corporation responsible for causing such discharge, spillage,  
19 uncontrolled loss, seepage or filtration, and (2) send notice, in writing,  
20 to the chief executive officer and the local director of health of the  
21 municipality in which such discharge, spillage, uncontrolled loss,  
22 seepage or filtration occurs of such occurrence. Such notification shall  
23 be sent not later than twenty-four hours after the commissioner  
24 becomes aware of the contamination.

25 (b) The commissioner may: (1) License terminals in the state for the  
26 loading or unloading of oil or petroleum or chemical liquids or solid,  
27 liquid or gaseous products or hazardous wastes and shall adopt, in  
28 accordance with chapter 54, reasonable regulations in connection  
29 therewith for the purposes of identifying terminals subject to licensure  
30 and protecting the public health and safety and for preventing the  
31 discharge, spillage, uncontrolled loss, seepage or filtration of oil or  
32 petroleum or chemical liquids or solid, liquid or gaseous products or  
33 hazardous wastes. Each license issued under this section shall be valid  
34 for a period of not more than three years commencing July first, unless  
35 sooner revoked by the commissioner, and there shall be charged for  
36 each such license or renewal thereof fees established by regulation  
37 sufficient to cover the reasonable cost to the state of inspecting and  
38 licensing such terminals; (2) provide by regulations for the  
39 establishment and maintenance in operating condition and position of  
40 suitable equipment to contain as far as possible the discharge, spillage,  
41 uncontrolled loss, seepage or filtration of any oil or petroleum or  
42 chemical liquids or solid, liquid or gaseous products or hazardous  
43 wastes; (3) inspect periodically all hoses, gaskets, tanks, pipelines and  
44 other equipment used in connection with the transfer, transportation  
45 or storage of oil or petroleum or chemical liquids or solid, liquid or  
46 gaseous products or hazardous wastes to make certain that they are in  
47 good operating condition, and order the renewal of any such  
48 equipment found unfit for further use. No person shall commence

49 operation of any such terminal in this state on or after July 1, 1993,  
50 without a license issued by the commissioner. Any person who  
51 operates any such terminal without a license issued by the  
52 commissioner shall be fined not more than five thousand dollars per  
53 day during any period of unlicensed operation.

54 (c) The commissioner may establish such programs and adopt, in  
55 accordance with chapter 54, and enforce such regulations as he deems  
56 necessary to carry out the intent of sections 22a-133a to 22a-133j,  
57 inclusive, sections 22a-448 to 22a-454, inclusive, and Subtitle C of the  
58 Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.),  
59 as amended from time to time, except that actions pursuant to the  
60 state's hazardous waste program shall be brought under the provisions  
61 of sections 22a-131 and 22a-131a.

62 (d) The Commissioner of Environmental Protection in consultation  
63 with the Commissioner of Public Safety may establish by regulations  
64 adopted in accordance with the provisions of chapter 54 standards and  
65 criteria for the nonresidential underground storage of oil, petroleum  
66 and chemical liquids which may include but not be limited to  
67 standards and criteria for the design, installation, operation,  
68 maintenance and monitoring of facilities for the underground storage  
69 and handling of such liquids. [Each nonresidential underground  
70 storage facility which, pursuant to regulations adopted pursuant to  
71 this section, submits notification of installation to the commissioner  
72 after July 1, 1990, shall submit a notification fee of one hundred dollars  
73 per tank.] The Commissioner of Environmental Protection may  
74 establish such programs and adopt, in accordance with chapter 54, and  
75 enforce such regulations as he deems necessary to carry out the intent  
76 of Subtitle I of the Resource Conservation and Recovery Act of 1976 (42  
77 USC 6901, et seq.), as amended from time to time.

78 (e) The fee for the inspection of each nonresidential underground  
79 storage facility which, pursuant to regulations adopted pursuant to  
80 this section, submits notification to the commissioner shall be one  
81 hundred dollars per tank, provided such fee may not be charged more

82 than once every five years.

83 (f) The Commissioner of Environmental Protection may adopt  
84 regulations, in accordance with the provisions of chapter 54, to  
85 establish (1) requirements for the inspection of nonresidential  
86 underground storage tank systems for compliance with the  
87 requirements of this chapter, including, but not limited to, the  
88 minimum frequency, method and content of inspections, and  
89 maintenance and disclosure of results, (2) a program to authorize  
90 persons to (A) perform inspections, including, but not limited to,  
91 education and training requirements for such persons, and whether or  
92 not such persons may be employed by the owner or operator of the  
93 subject nonresidential underground storage tank system, (B) determine  
94 whether the violations for which a nonresidential underground  
95 storage tank system has been taken out of service pursuant to  
96 subsection (g) of this section have been corrected, which regulations  
97 may include, but not be limited to, a prohibition for an owner or  
98 operator of any such system from placing such system back into  
99 service pursuant to this subdivision after the regulations take effect or  
100 additional requirements for an owner or operator of any such system,  
101 and (C) requirements, in addition to the requirements contained in  
102 subsection (g) of this section, relating to the prohibition of deliveries to  
103 and the use of nonresidential underground storage tank systems that  
104 are not in compliance with section 22a-449o or with the requirements  
105 of this section and any regulations adopted under this section.

106 (g) (1) If the commissioner determines that there is a release from a  
107 nonresidential underground storage tank system or that such system  
108 (A) is not designed, constructed, installed and operated in accordance  
109 with section 22a-449o or regulations adopted pursuant to this section,  
110 (B) fails to have or operate proper release detection equipment in  
111 accordance with regulations adopted pursuant to this section, or (C)  
112 fails to have or operate proper overfill and spill protection measures or  
113 equipment in accordance with regulations adopted pursuant to this  
114 section, then the commissioner may require the owner or operator of  
115 the nonresidential underground storage tank system to pump out the

116 contents of its system, and the commissioner may place a notice on a  
117 system that is plainly visible, indicating that the system is not in  
118 compliance with the requirements applicable to nonresidential  
119 underground storage tank systems and that such system cannot be  
120 used and deliveries to such system cannot be accepted, or the  
121 commissioner may disable the use of such system by placing a  
122 disabling device on the system that prohibits deliveries to such system.  
123 Any action pursuant to this subdivision shall not be based solely on  
124 requirements relating to reporting or recordkeeping. No person shall  
125 make deliveries to any nonresidential underground storage tank  
126 system bearing the notice described in this subdivision or on which the  
127 commissioner has placed a disabling device. The owner or operator of  
128 such system shall ensure that any such system is not used for  
129 dispensing a product or receiving deliveries while any notice or  
130 disabling device has been placed upon such system. Except as  
131 provided in subdivision (3) of this subsection, no person or  
132 municipality shall remove, alter, deface or tamper with any notice or  
133 disabling device placed by the commissioner pursuant to this  
134 subdivision.

135 (2) Not later than two business days after placing a notice or  
136 disabling device on a nonresidential underground storage tank system  
137 pursuant to subdivision (1) of this subsection, the commissioner shall  
138 provide the owner or operator of the affected underground storage  
139 tank system with an opportunity for a hearing. Any such hearing shall  
140 be limited to whether the violation upon which the commissioner took  
141 action under subdivision (1) of this subsection occurred and whether  
142 such violation is continuing.

143 (3) A nonresidential underground storage tank system upon which  
144 a notice or disabling device has been placed pursuant to subdivision  
145 (1) of this subsection shall not be put back into service and shall not be  
146 used for dispensing a product or receiving deliveries until the  
147 violations that caused the notice or disabling device to be placed have  
148 been corrected to the satisfaction of (A) the commissioner, or (B) a  
149 person who, pursuant to regulations adopted pursuant to subsection

150 (f) of this section, has been authorized by the commissioner to  
151 determine whether such violations have been corrected. The  
152 commissioner shall determine whether any applicable violation has  
153 been corrected not later than twenty-four hours after being contacted  
154 by the owner or operator of the underground storage tank system that  
155 any such violation has been fully corrected. Notwithstanding the  
156 provisions of this subdivision, until the commissioner authorizes  
157 persons to determine whether violations have been corrected pursuant  
158 to regulations adopted pursuant to subsection (f) of this section, the  
159 owner or operator of an underground storage tank system upon which  
160 a notice or a disabling device has been placed by the commissioner  
161 may place such system back into service, where, not later than twenty-  
162 four hours after being contacted by the owner or operator, the  
163 commissioner has not determined whether any applicable violation  
164 has been corrected and on the day any such system is returned to  
165 service or the next business day in the event such day is a Saturday,  
166 Sunday or legal holiday, the owner or operator provides the  
167 commissioner with a written affidavit fully describing all actions taken  
168 to correct the violations that caused a notice or disabling device to be  
169 placed upon such system and certifying that all such violations were  
170 fully corrected before any such system was returned to service.

171 (4) Nothing in this subsection shall affect the authority of the  
172 commissioner under any other statute or regulation.

173 (i) The person submitting a notification of installation for a  
174 nonresidential underground storage tank or underground storage tank  
175 system pursuant to regulations adopted pursuant to this section shall  
176 submit with such notification a notification fee of one hundred dollars  
177 per tank or system.

178 [(f)] (j) Any moneys collected for the issuance or renewal of a  
179 license, pursuant to subsection (b) of this section or regulations  
180 adopted pursuant to said subsection, shall be deposited in the General  
181 Fund.

182 Sec. 2. Section 22a-449a of the general statutes is repealed and the  
183 following is substituted in lieu thereof (*Effective from passage*):

184 As used in this section and sections 22a-449c to 22a-449m, inclusive:

185 (1) "Petroleum" means crude oil, crude oil fractions and refined  
186 petroleum fractions, including gasoline, kerosene, heating oils and  
187 diesel fuels;

188 (2) "Release" means any spilling, leaking, pumping, pouring,  
189 emitting, emptying, discharging, injecting, escaping, leaching,  
190 dumping or disposing of petroleum from any underground storage  
191 tank or underground storage tank system;

192 (3) "Responsible party" means (A) for an application or request for  
193 payment or reimbursement received by the board before July 1, 2005,  
194 and with regard to a determination regarding a person's status as a  
195 responsible party or a third party with respect to a specific release or  
196 suspected release made by the board before July 1, 2005, any person  
197 [or entity, including the state and any political subdivision of the state,  
198 which] who owns or operates an underground storage tank or  
199 underground storage tank system from which a release or suspected  
200 release emanates, (B) on or after July 1, 2005, any person who (i) at any  
201 time owns, leases, uses or has an interest in the real property on which  
202 an underground storage tank system is or was located from which  
203 there is or has been a release or suspected release, regardless of when  
204 the release or suspected release occurred, or whether such person  
205 owned, leased, used or had an interest in the real property at the time  
206 the release or suspected release occurred, or whether such person  
207 owned, operated, leased or used the underground storage tank system  
208 from which the release or suspected release occurred, (ii) at any time  
209 owns, leases, operates, uses, or has an interest in an underground  
210 storage tank system from which there is or has been a release or  
211 suspected release, regardless of when the release or suspected release  
212 occurred or whether such person owned, leased, operated, used or had  
213 an interest in the underground storage tank system at the time the

214 release or suspected release occurred, or (iii) is affiliated with a person  
215 described in subclause (i) or (ii) of this subparagraph through a direct  
216 or indirect familial relationship or any contractual, corporate or  
217 financial relationship;

218 (4) "Underground storage tank" means a tank or combination of  
219 tanks, including underground pipes connected thereto, used to contain  
220 an accumulation of petroleum, whose volume is ten per cent or more  
221 beneath the surface of the ground, including the volume of  
222 underground pipes connected thereto;

223 (5) "Underground storage tank system" means an underground  
224 storage tank and any associated ancillary equipment and containment  
225 system; [and]

226 (6) "Residential underground heating oil storage tank system"  
227 means (A) an underground storage tank system used in connection  
228 with residential real property composed of four residential units or  
229 fewer, or (B) a storage tank system and any associated ancillary  
230 equipment used in connection with residential real property composed  
231 of four residential units or fewer; and

232 (7) "Person" means any individual, firm, partnership, association,  
233 syndicate, company, trust, corporation, limited liability company,  
234 municipality, agency or political or administrative subdivision of the  
235 state, or other legal entity of any kind.

236 Sec. 3. Section 22a-449c of the general statutes is repealed and the  
237 following is substituted in lieu thereof (*Effective from passage*):

238 (a) (1) There is established an account to be known as the  
239 "underground storage tank petroleum clean-up account". The  
240 underground storage tank petroleum clean-up account shall be an  
241 account of the Environmental Quality Fund. Notwithstanding any  
242 provision of the general statutes to the contrary, any moneys collected  
243 shall be deposited in the Environmental Quality Fund and credited to  
244 the underground storage tank petroleum clean-up account. Any

245 balance remaining in said account at the end of any fiscal year shall be  
246 carried forward in said account for the fiscal year next succeeding.

247 (2) The account shall be used by the Commissioner of  
248 Environmental Protection to provide money for reimbursement or  
249 payment pursuant to section 22a-449f to responsible parties or parties  
250 supplying goods or services, [or both, to responsible parties] for costs,  
251 expenses and other obligations paid or incurred, as the case may be, as  
252 a result of releases, and suspected releases, costs of investigation and  
253 remediation of releases and suspected releases, and [third party] for  
254 claims by a person other than a responsible party for bodily injury,  
255 property damage and damage to natural resources that have been  
256 finally adjudicated or settled with the prior written consent of the  
257 board. The commissioner may also make payment from the account to  
258 an assignee who is in the business of receiving assignments of amounts  
259 approved by the board, but not yet paid from the account, provided  
260 the party making any such assignment, using a form approved by the  
261 commissioner, directs the commissioner to pay such assignee, that no  
262 cost of any assignment shall be borne by the account and that the state  
263 and its agencies shall not bear any liability with respect to any such  
264 assignment.

265 (3) Notwithstanding the provisions of this section regarding  
266 reimbursements of parties pursuant to section 22a-449f, as amended by  
267 this act, regulations promulgated pursuant to section 22a-449e, as  
268 amended by this act, and regardless of when an application for  
269 payment or reimbursement from the account may have been  
270 submitted to the board, [after] payment or reimbursement shall be  
271 made in accordance with the following: (A) After June 1, 2004, no  
272 payment or reimbursement shall be made for any costs, expenses and  
273 other obligations paid or incurred for remediation, including any  
274 monitoring to determine the effectiveness of the remediation, of a  
275 release to levels more stringent than or beyond those specified in the  
276 remediation standards established pursuant to section 22a-133k, except  
277 to the extent the applicant demonstrates that it has been directed  
278 otherwise, in writing, by the [Department of Environmental

279 Protection] commissioner; (B) after June 1, 2005, no payment or  
280 reimbursement from the account shall be made to any person for  
281 diminution in property value or interest; and (C) after June 1, 2005, no  
282 payment or reimbursement from the account shall be made for  
283 attorneys' fees or other costs of legal representation paid or incurred as  
284 a result of a release or suspected release (i) in excess of five thousand  
285 dollars to any responsible party, (ii) in excess of ten thousand dollars  
286 to any person other than a responsible party, and (iii) by a responsible  
287 party regarding the defense of claims brought by another person. In  
288 addition, notwithstanding the provisions of this section regarding  
289 reimbursements of parties pursuant to section 22a-449f, the responsible  
290 party [for a release] shall bear all costs of the release that are less than  
291 ten thousand dollars [or] and all persons shall bear all costs of the  
292 release that are more than one million dollars, except that for any such  
293 release which was reported to the department prior to December 31,  
294 1987, and for which more than five hundred thousand dollars has been  
295 expended by the responsible party to remediate such release prior to  
296 June 19, 1991, the responsible party for the release shall bear all costs of  
297 such release which are less than ten thousand dollars or more than five  
298 million dollars, provided the portion of any reimbursement or  
299 payment in excess of three million dollars may, at the discretion of the  
300 commissioner, be made in annual payments for up to a five-year  
301 period. There shall be allocated to the department annually, for  
302 administrative costs, two million dollars.

303 (b) There is established a subaccount within the underground  
304 storage tank petroleum clean-up account to be known as the  
305 "residential underground heating oil storage tank system clean-up  
306 subaccount" to be used solely for the provision of reimbursements  
307 under sections 22a-449l and 22a-449n, for the remediation of  
308 contamination attributed to residential underground heating oil  
309 storage tank systems. The subaccount shall hold the proceeds of the  
310 bond funds allocated pursuant to section 51 of public act 00-167\*.

311 (c) There is established a subaccount within the underground  
312 storage tank petroleum clean-up account to be known as the "pay for

313 performance subaccount" with which the commissioner may  
314 implement a program, in consultation with the board, in which  
315 reimbursement or repayment in accordance with this section is based  
316 upon the achievement of environmental milestones or results. The  
317 commissioner, with the approval of the board, may enter into contracts  
318 to implement any such program.

319 (d) (1) If an initial application or request for payment or  
320 reimbursement is received by the board before July 1, 2005, no  
321 supplemental application or request for payment or reimbursement  
322 shall be submitted to the board on or after October 1, 2009, regarding  
323 costs, expenses or other obligations paid or incurred in response to the  
324 release or suspected release noted in any such initial application or  
325 request for payment or reimbursement. The provisions of this  
326 subdivision shall apply regardless of whether the cost, expense or  
327 other obligation was paid or incurred before October 1, 2009, and no  
328 reimbursement or payment from the account shall be ordered by the  
329 board or made by the commissioner regarding any such supplemental  
330 application or request for payment or reimbursement received by the  
331 board on or after the October 1, 2009, deadline established in this  
332 subdivision.

333 (2) If an initial application or request for payment or reimbursement  
334 is received by the board on or after July 1, 2005, no supplemental  
335 application or request for payment or reimbursement shall be  
336 submitted to the board more than five years after the date that the  
337 initial application or request for payment or reimbursement was  
338 received by the board, regarding costs, expenses or other obligations  
339 paid or incurred in response to the release or suspected release noted  
340 in such initial application or request for payment or reimbursement.  
341 The provisions of this subdivision shall apply regardless of whether a  
342 cost, expense or other obligation was paid or incurred before the  
343 expiration of the five-year deadline established in this subdivision and  
344 no reimbursement or payment from the account shall be ordered by  
345 the board or made by the commissioner regarding any such  
346 supplemental application or request for payment or reimbursement

347 received by the board after the five-year deadline established in this  
348 subdivision.

349 (3) Notwithstanding the provisions of subsection (i) of section 22a-  
350 449f, if an application or request for payment or reimbursement is not  
351 brought before the board for a decision not later than six months after  
352 having been received by the board, then six months shall be added to  
353 the deadline applicable pursuant to subdivision (1) or (2) of this  
354 subsection, provided no more than two years shall be added to the  
355 deadline established pursuant to subdivision (1) or (2) of this  
356 subdivision regardless of whether one or more applications or requests  
357 for payment or reimbursement have been received by the board but  
358 have not been brought before the board for a decision not later than six  
359 months after receipt. In addition, if the commissioner determines that  
360 an application or request for payment or reimbursement is ready for  
361 decision by the board and such application or request has been placed  
362 on the agenda for the meeting of the board, but cannot be brought  
363 before the board because the board is unable to meet or cannot act on  
364 such application or request, the deadlines established pursuant to  
365 subdivision (1) or (2) of this subdivision shall also be extended only for  
366 that period that the board is unable to meet or is unable to act on such  
367 application or request.

368 (4) The provisions of this subsection shall not apply to annual  
369 groundwater remedial actions, including the preparation of a  
370 groundwater remedial action progress report, performed pursuant to  
371 subdivision (6) of section 7 of this act. Notwithstanding the provisions  
372 of this subsection, the board may continue to receive applications or  
373 requests for payment or reimbursement and provided all other  
374 requirements have been met, may order payment or reimbursement  
375 from the account for such activities.

376 (e) (1) Any person who has insurance, or a contract or other  
377 agreement to provide payment or reimbursement for any costs,  
378 expense or other obligation paid or incurred in response to a release or  
379 suspected release may submit an application or request seeking

380 payment or reimbursement from the account to the board, provided  
381 any such application or request for payment or reimbursement shall be  
382 subject to all applicable requirements, including, but not limited to,  
383 subdivision (7) of subsection (c) of section 22a-449f.

384 (2) Any person who at any time receives or expects to receive  
385 payment or reimbursement from any source other than the account for  
386 any cost, expense, obligation, damage or injury for which such person  
387 has received or has applied for payment or reimbursement from the  
388 account, shall notify the board, in writing, of such supplemental or  
389 expected payment and shall, not more than thirty days after receiving  
390 such supplemental payment, repay the underground storage tank  
391 petroleum clean-up fund all such amounts received from any other  
392 source.

393 (3) If the board determines that a person is seeking or has sought  
394 payment or reimbursement for any cost, expense, obligation, damage  
395 or injury from the account and that payment or reimbursement for any  
396 such cost, expense, obligation, damage or injury is actually or  
397 potentially available to any such person from any source other than the  
398 account, the board may impose any conditions it deems reasonable  
399 regarding any amount it orders to be paid from the account.

400 Sec. 4. Section 22a-449d of the general statutes is repealed and the  
401 following is substituted in lieu thereof (*Effective from passage*):

402 (a) There is established an Underground Storage Tank Petroleum  
403 Clean-Up Account Review Board, [to review applications for  
404 reimbursements and payments from the account established under  
405 section 22a-449c.] Upon application for reimbursement or payment  
406 pursuant to section 22a-449f, the board shall determine, [if a release  
407 occurred and damage resulted from such release and the amount of  
408 any such damage] based on the provisions of sections 22a-449a to 22a-  
409 449i, inclusive, as amended by this act, and all regulations adopted  
410 pursuant to said sections 22a-449a to 22a-449i, inclusive, whether or  
411 not to order payment or reimbursement from the account. The board

412 shall have the authority to order payment from the residential  
413 underground heating oil storage tank system clean-up subaccount to  
414 registered contractors pursuant to section 22a-449l, or to owners  
415 pursuant to section 22a-449n, for reasonable costs associated with the  
416 remediation of a residential underground heating oil storage tank  
417 system based on the guidelines established pursuant to subsection (c)  
418 of this section; hold hearings, administer oaths, subpoena witnesses  
419 and documents through its chairperson when authorized by the board;  
420 designate an agent to perform such duties of the board as it deems  
421 necessary except the duty to render a final decision to order  
422 reimbursement or payment from the account; and provide by notice,  
423 printed on any form, that any false statement made thereof or  
424 pursuant thereto is punishable pursuant to section 53a-157b.

425 (b) The board shall consist of the Commissioners of Environmental  
426 Protection and Revenue Services, the Secretary of the Office of Policy  
427 and Management and the State Fire Marshal, or their designees; one  
428 member representing the Connecticut Petroleum Council, appointed  
429 by the speaker of the House of Representatives; one member  
430 representing the Service Station Dealers Association, appointed by the  
431 majority leader of the Senate; one member of the public, appointed by  
432 the majority leader of the House of Representatives; one member  
433 representing the Independent Connecticut Petroleum Association,  
434 appointed by the president pro tempore of the Senate; one member  
435 representing the [Connecticut Gasoline Retailers Association] Gasoline  
436 and Automotive Service Dealers of America, Inc., appointed by the  
437 minority leader of the House of Representatives; one member  
438 representing a municipality with a population greater than one  
439 hundred thousand, appointed by the Governor; one member  
440 representing a municipality with a population of less than one  
441 hundred thousand, appointed by the minority leader of the Senate; one  
442 member representing a small manufacturing company which employs  
443 fewer than seventy-five persons, appointed by the speaker of the  
444 House of Representatives; one member experienced in the delivery,  
445 installation, and removal of residential underground petroleum

446 storage tanks and remediation of contamination from such tanks,  
447 appointed by the president pro tempore of the Senate; and one  
448 member who is an environmental professional licensed under section  
449 22a-133v and is experienced in investigating and remediating  
450 contamination attributable to underground petroleum storage tanks,  
451 appointed by the Governor. The board shall annually elect one of its  
452 members to serve as chairperson.

453 (c) Not later than July 1, 2000, the board shall establish guidelines  
454 for determining what costs are reasonable for payment under sections  
455 22a-449l and 22a-449n and shall establish requirements for financial  
456 assurance, training and performance standards for registered  
457 contractors, as defined in said sections 22a-449l and 22a-449n. The  
458 board shall make payment pursuant to section 22a-449n to the owner  
459 at a rate not to exceed one hundred fifty-seven dollars per ton of  
460 contaminated soil removed which shall be considered as full payment  
461 for all eligible costs for remediation. For any claim filed pursuant to  
462 section 22a-449n where no contaminated soil is removed the board  
463 shall reimburse eligible costs in accordance with the guidelines  
464 pursuant to this section.

465 (d) To the extent that funds are available in the residential  
466 underground heating oil storage tank system clean-up subaccount, the  
467 board may order payment from such subaccount to registered  
468 contractors for reimbursement of eligible costs for services associated  
469 with the remediation of a residential underground heating oil storage  
470 tank system prior to July 1, 2001, to owners of such systems for  
471 payment for eligible costs incurred after July 1, 2001. No such payment  
472 shall be authorized unless the board deems the costs reasonable based  
473 on the guidelines established pursuant to subsection (c) of this section.  
474 Notwithstanding the provisions of this subsection, if the board  
475 determines that the owner may not receive reimbursement payment  
476 from the contractor, the board may, if reimbursement has not been sent  
477 to the contractor, directly reimburse the owner of such system for  
478 eligible costs incurred by the owner and paid to the registered  
479 contractor for services associated with a remediation of a system prior

480 to July 1, 2001.

481 Sec. 5. Section 22a-449e of the general statutes is repealed and the  
482 following is substituted in lieu thereof (*Effective from passage*):

483 (a) The Commissioner of Environmental Protection, after  
484 consultation with the members of the [review] board established by  
485 section 22a-449d, as amended by this act, shall adopt regulations in  
486 accordance with the provisions of chapter 54 setting forth procedures  
487 for reimbursement and payment from the account established under  
488 section 22a-449c, as amended by this act. Such regulations shall include  
489 such provisions as the commissioner deems necessary to carry out the  
490 purposes of sections 22a-449a to 22a-449h, inclusive, as amended by  
491 this act, including, but not limited to, provisions for (1) notification of  
492 eligible parties of the existence of the account; (2) records required for  
493 submission of claims and reimbursement and payment; (3) periodic  
494 and partial reimbursement and payment to enable responsible parties  
495 to meet interim costs, expenses and obligations; and (4) reimbursement  
496 and payment for costs, expenses and obligations incurred in  
497 connection with releases or suspected releases, and incurred after July  
498 5, 1989, for releases discovered before or after said date provided  
499 reimbursement and payment shall not be made for costs, expenses and  
500 obligations incurred by a responsible party on or before said date.

501 (b) (1) The commissioner, in accordance with the procedures set  
502 forth in subdivision (2) of this subsection, may prescribe a schedule for  
503 the maximum or range of amounts to be paid from the account for  
504 labor, equipment, materials, services or other costs, expenses or  
505 obligations paid or incurred as a result of a release or suspected  
506 release. Such schedule shall not be a regulation, as defined in section 4-  
507 166 and the adoption, modification, repeal or use of such schedule  
508 shall not be subject to the provisions of chapter 54 concerning a  
509 regulation. The amounts in any such schedule may be less than and  
510 shall be not more than the usual, customary and reasonable amounts  
511 charged, as determined by the commissioner. Notwithstanding the  
512 provisions of sections 22a-449a to 22a-449j, inclusive, as amended by

513 this act, or any regulation adopted by the commissioner pursuant to  
514 this section, upon adoption of any such schedule, the amount to be  
515 paid from the account for any labor, equipment, materials, services or  
516 other costs, expenses or other obligations, shall not exceed the amount  
517 established in any such schedule and such schedule may serve as  
518 guidance with respect to any costs, expenses or other obligations paid  
519 or incurred before the adoption of such schedule.

520 (2) The commissioner shall adopt, revise or revoke said schedule in  
521 accordance with the provisions of this subsection. After consultation  
522 with the board, the commissioner shall publish notice of intent to  
523 adopt, revise or revoke the schedule, or any portion thereof, in a  
524 newspaper having substantial circulation in the affected area. There  
525 shall be a comment period of thirty days following publication of such  
526 notice during which interested persons may submit written comments  
527 to the commissioner. The commissioner shall publish notice of the  
528 adoption, revision or revocation of the schedule, or part thereof, in a  
529 newspaper having substantial circulation in the affected area. The  
530 commissioner shall, upon request, review and shall make any revisions  
531 the commissioner deems necessary to such schedule not more than  
532 once every two years or may do so more frequently as the  
533 commissioner deems necessary. The commissioner, after consultation  
534 with the board, may revise or revoke the schedule, in whole or in part,  
535 using the procedures specified in this subsection. Any person may  
536 request that the commissioner adopt, revise or revoke the schedule in  
537 accordance with this subsection.

538 (c) Upon adoption of a schedule by the commissioner pursuant to  
539 subsection (b) of this section, the requirements concerning obtaining  
540 three bids for services rendered contained in regulations adopted  
541 pursuant to this section shall not apply, provided that the schedule  
542 includes the subject services.

543 (d) An environmental professional, who has a currently valid and  
544 effective license issued pursuant to section 22a-133v, shall use a seal, as  
545 provided for in regulations adopted pursuant to section 22a-133v, to

546 provide written approval required under section 22a-449c, as amended  
547 by this act, section 22a-449f and section 7 of this act, and any approval  
548 without a seal shall not constitute an approval of a licensed  
549 environmental professional. The regulations adopted pursuant to  
550 section 22a-133v regarding the use of a seal and the rules of  
551 professional conduct shall apply to the duties of a licensed  
552 environmental professional contained in sections 22a-449a to 22a-449i,  
553 inclusive, as amended by this act, and section 7 of this act.

554 Sec. 6. Section 22a-449f of the general statutes is repealed and the  
555 following is substituted in lieu thereof (*Effective from passage*):

556 (a) A responsible party may apply to the Underground Storage  
557 Tank Petroleum Clean-Up Account Review Board established under  
558 section 22a-449d, as amended by this act, for reimbursement for costs  
559 paid and payment of costs incurred as a result of a release, or a  
560 suspected release, including costs of investigating and remediating a  
561 release, or a suspected release, incurred or paid by [a responsible] such  
562 party who is determined not to have been liable for any such release. If  
563 a person or entity, other than a responsible party, claims to have  
564 suffered [damage or personal injury] bodily injury, property damage  
565 or damage to natural resources from a release, [and] the person with  
566 such claim shall make reasonable attempts to provide written notice to  
567 the responsible party of such claim and if such person or entity cannot  
568 provide such notice or if the responsible party [denies there was a  
569 release or] does not apply to the board for payment of such claim not  
570 later than sixty days after receipt of such notice or such other time as  
571 may be agreed to by the parties, the person or entity holding such  
572 claim may apply to the board for payment for such damage or  
573 [personal] bodily injury.

574 (b) (1) In addition to all other applicable requirements, a person  
575 seeking payment or reimbursement from the account shall  
576 demonstrate that when the total costs, expenses or other obligations in  
577 response to a release or suspected release (A) are two hundred fifty  
578 thousand dollars or less, that all labor, equipment and materials

579 provided after October 1, 2005, and all services and activities  
580 undertaken after October 1, 2005, shall be approved, in writing, either  
581 by the commissioner or by a licensed environmental professional with  
582 a currently valid and effective license issued pursuant to section 22a-  
583 133v; and (B) exceeds two hundred fifty thousand dollars, that all  
584 labor, equipment and materials provided after October 1, 2005, and all  
585 services and activities undertaken after October 1, 2005, shall be  
586 approved, in writing, by the commissioner or that the commissioner  
587 has authorized, in writing, an environmental professional with a  
588 currently valid and effective license issued pursuant to section 22a-  
589 133v to approve, in writing, such labor, equipment, materials, services  
590 and activities, in lieu of a written approval by the commissioner. The  
591 provisions of this subsection shall apply to all costs, expenses or other  
592 obligations for which a person is seeking payment or reimbursement  
593 from the account and the board shall not order and the commissioner  
594 shall not make payment or reimbursement from the account for any  
595 cost, expense or other obligation, unless the person seeking such  
596 payment or reimbursement includes with an application or with a  
597 request for payment or reimbursement all written approvals required  
598 by this subdivision.

599 (2) The fees charged by a licensed environmental professional  
600 regarding labor or services rendered in response to a release or  
601 suspected release may be included in any application or request for  
602 payment or reimbursement submitted to the board. The amount to be  
603 paid or reimbursed from the account for such fees may also be  
604 established in the schedule adopted by the commissioner pursuant to  
605 subsection (b) of section 22a-449e, as amended by this act.

606 (3) Providing it is true and accurate, a licensed environmental  
607 professional shall submit the following certification regarding any  
608 approval provided under subdivision (1) of this subsection and section  
609 7 of this act: "I hereby agree that all of the labor, equipment, materials,  
610 services, and activities described in or covered by this certification was  
611 appropriate under the circumstances to abate an emergency or was  
612 performed as part of a plan specifically designed to ensure that the

613 release or suspected release is or has been investigated in accordance  
614 with prevailing standards and guidelines and remediated consistent  
615 with and to achieve compliance with the remediation standards  
616 adopted under section 22a-133k.

617 (c) The board shall order reimbursement or payment from the  
618 account for any cost paid or incurred, as the case may be, if, (1) such  
619 cost is or was incurred after July 5, 1989, (2) [the] a responsible party  
620 was or would have been required to demonstrate financial  
621 responsibility under 40 CFR Part 280.90 et seq. as said regulation was  
622 published in the Federal Register of October 26, 1988, for the  
623 underground storage tank or underground storage tank system from  
624 which the release emanated, whether or not such owner is required to  
625 comply with said requirements on the date any such cost is incurred,  
626 provided if the state is the responsible party, the board may order  
627 payment from the account without regard to whether the state was or  
628 would have been required to demonstrate financial responsibility  
629 under said sections 40 CFR Part 280.90 et seq., (3) after the release, if  
630 any, the responsible party incurred a cost, expense or obligation for  
631 investigation, cleanup or for claims of [third parties] a person other  
632 than a responsible party resulting from [a] the release, provided any  
633 [third party] such claim shall be required to be finally adjudicated or  
634 settled with the prior written approval of the board before an  
635 application for reimbursement or payment is made, (4) the board  
636 determines that the cost, [is for damage that was incurred as a result of  
637 the release,] expense or other obligation is reasonable and that [the]  
638 there are not grounds for recovery specified in [subsection (b)]  
639 subdivision (2) of subsection (f) of this section, [do not exist at the time  
640 such determination is made,] (5) the responsible party notified the  
641 [board] commissioner of the release in accordance with regulations  
642 adopted pursuant to section 22a-449, as amended by this act, or, where  
643 such regulations are not applicable, as soon as practicable, [of the  
644 release,] and notified the board, as soon as practicable, of any [third  
645 party] claim by a person other than a responsible party, resulting from  
646 the release, [in accordance with the regulations adopted pursuant to

647 section 22a-449e, and] (6) the [applicant] responsible party  
648 demonstrates the remediation, including any monitoring to determine  
649 the effectiveness of the remediation, for which payment or  
650 reimbursement is sought is not more stringent than that required by  
651 the remediation standards established pursuant to section 22a-133k,  
652 except to the extent the [applicant] responsible party demonstrates that  
653 it has been directed otherwise, in writing, by the [Department of  
654 Environmental Protection] commissioner, (7) the responsible party  
655 demonstrates that it does not have insurance, or a contract or other  
656 agreement to provide payment or reimbursement for any cost, expense  
657 or other obligation incurred in response to a release or suspected  
658 release, or if there is any such insurance, contract or other agreement,  
659 that any insurance coverage has been denied or is insufficient to cover  
660 the costs, expenses or other obligations, paid or incurred or that any  
661 contract or other agreement is not able to or is insufficient to cover the  
662 costs, expenses or other obligations, paid or incurred, for which  
663 payment or reimbursement is sought from the account, (8) the  
664 responsible party demonstrates and the board determines that one of  
665 the milestones noted in section 7 of this act has been completed, (9) the  
666 board determines what, if any, reductions to the amounts sought from  
667 the account should be made based upon the compliance evaluations  
668 performed pursuant to subsection (d) of this section, and (10) if at the  
669 time any application or request for payment or reimbursement,  
670 including any supplemental application or request, is submitted to the  
671 board, there is no underground storage tank system dispensing  
672 petroleum on the property where the release or suspected release  
673 emanated or occurred, then the responsible party demonstrates, in  
674 addition to all other applicable requirements, that lack of compliance  
675 with provisions of the general statutes and regulations governing  
676 underground storage tank systems was not a proximate cause of the  
677 release or suspected release and that there are not grounds for  
678 recovery specified in subdivision (2) of subsection (h) of this section. In  
679 acting on an application or a request for payment or reimbursement,  
680 the board, using funds from the [underground storage tank petroleum  
681 clean-up] account, may contract with experts, including, but not

682 limited to, attorneys and medical professionals, to better evaluate and  
683 defend against claims and negotiate [third party] claims by persons  
684 other than responsible parties. The costs of the board for experts shall  
685 not be charged to the amount allocated to the Department of  
686 Environmental Protection pursuant to section 22a-449c, as amended by  
687 this act. If a person other than a responsible party applies to the board  
688 claiming to have suffered bodily injury, property damage or damage  
689 to natural resources, the board shall order reimbursement or payment  
690 from the account if such party demonstrates that subdivisions (1), (2),  
691 (6) and (7) of this subsection are satisfied, the board determines that as  
692 a result of a release or suspected release such person has suffered  
693 bodily injury, property damage or damage to natural resources, that  
694 the costs, expenses or other obligations incurred are reasonable and the  
695 party submitting such claim demonstrates that it has attempted to or  
696 has provided written notice of its claim to the responsible party as  
697 required in subsection (a) of this section and that the responsible party  
698 has not applied to the board for payment or reimbursement of this  
699 claim.

700 (d) (1) Except as provided in this subsection, if at the time any  
701 application or request for payment or reimbursement is submitted to  
702 the board, including any supplemental application or request, there is  
703 an underground storage tank system dispensing petroleum on the  
704 property where the release or suspected release emanated or occurred,  
705 such application or request shall not be deemed complete and shall not  
706 be acted upon by the board unless such application or request includes  
707 a summary of the compliance status of all the underground storage  
708 tank systems on the subject property. Any such summary shall include  
709 an evaluation of compliance with the design, construction, installation,  
710 notification, general operating, release detecting, system upgrading,  
711 abandonment and removal date requirements of the regulations  
712 adopted pursuant to sections 22a-449, as amended by this act, and 22a-  
713 449o and shall be prepared by an independent consultant on a form  
714 prescribed by or acceptable to the commissioner. The summary shall  
715 be based on an evaluation of said underground storage tank systems

716 performed not more than one hundred eighty days before the board  
717 receives an application or a request for reimbursement or payment,  
718 except that with respect to any provision of the subject regulations  
719 regarding record keeping, periodic monitoring or testing, the summary  
720 shall be based on an evaluation for one year prior to the board's receipt  
721 of an application or a request for payment or reimbursement. The  
722 summary shall also include a full description of all corrective measures  
723 that have been taken or that are being taken with regard to any  
724 noncompliance identified in the compliance evaluation performed  
725 pursuant to this subdivision.

726 (2) With respect to any initial application or request for payment or  
727 reimbursement regarding a release or suspected release the provisions  
728 of subdivision (1) of this subsection shall apply only to applications or  
729 requests received on or after January 1, 2006. With respect to any  
730 supplemental application or request for payment or reimbursement  
731 regarding a release or suspected release, the provisions of subdivision  
732 (1) of this subsection shall apply to each application or request  
733 submitted to the board on or after January 1, 2006, regardless of when  
734 the initial application or request was submitted, except that submission  
735 of a compliance summary shall not be required if at the time a  
736 supplemental application or request is submitted, less than one year  
737 has passed since the performance of a compliance evaluation  
738 submitted with any prior application or request.

739 (3) The cost of hiring an independent consultant to perform a  
740 compliance evaluation, as required by this subsection, shall be eligible  
741 for payment or reimbursement from the account up to a maximum of  
742 one thousand dollars per compliance evaluation, provided the  
743 evaluation is in conformance with the requirements of this subsection  
744 and includes all underground storage tank systems on the property  
745 where a release or suspected release emanated or occurred. If the  
746 schedule adopted by the commissioner pursuant to subsection (b) of  
747 section 22a-449e, as amended by this act, includes an amount for  
748 performing a compliance evaluation, upon adoption of any such  
749 schedule, the amount eligible for payment or reimbursement for

750 performing a compliance evaluation shall be the amount prescribed in  
751 any such schedule.

752 (4) Nothing in this subsection shall affect the continued applicability  
753 of any decision of the board to (A) deny reimbursement or payment  
754 from the account, or (B) provide only partial payment or  
755 reimbursement regarding all applications or requests for payment or  
756 reimbursement from the account. Any such decision shall remain in  
757 effect and shall not be subject to reconsideration or reevaluation as a  
758 result of this subsection.

759 (5) Except as provided for in this subdivision, if at the time any  
760 application or request for payment or reimbursement, including any  
761 supplemental application or request, is submitted, there is no  
762 underground storage tank system dispensing petroleum on the  
763 property where the release or suspected release emanated or occurred,  
764 any such application or request shall be subject to the provisions of  
765 subdivision (10) of subsection (c) of this section, even where a prior  
766 application or request was subject to the provisions of this subsection.  
767 The provisions of this subdivision shall not apply to an application or  
768 request for payment or reimbursement for annual groundwater  
769 remedial actions, including the preparation of a groundwater remedial  
770 action progress report, performed pursuant to subdivision (6) of  
771 section 7 of this act.

772 (e) (1) If the compliance evaluation summary performed pursuant to  
773 subsection (d) of this section indicates that any of the violations noted  
774 in this subdivision exist with respect to any underground storage tank  
775 or underground storage tank system on the property at which a release  
776 or suspected release occurred and any such violations have not been  
777 fully corrected by the time an application or request for reimbursement  
778 is submitted to the board, the board shall reduce any payment or  
779 amount to be reimbursed as follows: (A) A one hundred per cent  
780 reduction of the payment or amount to be reimbursed for failure to  
781 meet the tank or piping construction requirements of section 22a-449o  
782 or the regulations adopted pursuant to section 22a-449, as amended by

783 this act, or for failure to report the release to the commissioner as  
784 required by this section, (B) a seventy-five per cent reduction of the  
785 payment or amount to be reimbursed for failure to have properly  
786 functioning cathodic protection, spill prevention, overfill prevention,  
787 or release detection as required by the regulations adopted pursuant to  
788 section 22a-449, as amended by this act. Notwithstanding the  
789 provisions of this subsection, the board may reduce any amount to be  
790 paid or reimbursed based on any other violation of the provisions of  
791 the general statutes or regulations of Connecticut state agencies  
792 regarding ownership or operation of an underground storage tank  
793 system.

794 (2) Nothing in this subsection and no determination by the board of  
795 any issue of fact or law shall affect the authority of the commissioner  
796 under any other statute or regulations, including, but not limited to,  
797 taking any enforcement action based upon the violations identified in  
798 any compliance evaluation performed pursuant to subsection (d) of  
799 this section.

800 [(b) (1) For all work or services performed or materials provided  
801 after October 1, 2004, the board shall not order payment or  
802 reimbursement from the account for any cost paid or incurred, unless  
803 the application or preauthorization request seeking payment or  
804 reimbursement is received by the board within one hundred eighty  
805 days of the date that such work or services were rendered or  
806 performed or the date that any material was provided.]

807 [(2)] (f) (1) For all work or services performed or materials provided  
808 before October 1, 2004, the board shall not order payment or  
809 reimbursement from the account for any cost paid or incurred, unless  
810 when seeking payment or reimbursement, the application or  
811 [preauthorization request seeking payment or reimbursement] any  
812 submission regarding work, services or materials that have been pre-  
813 authorized by the board prior to the effective date of this section is  
814 received by the board on or before April 1, 2005.

815 [(3)] (2) For purposes of this subsection, work or services shall be  
816 deemed rendered or performed on the date such work is rendered or  
817 performed and a material shall be deemed provided on the date a  
818 material is made available for use.

819 (3) After the effective date of this section, the board shall not order  
820 payment or reimbursement from the account for any cost, expense or  
821 other obligation, paid or incurred, unless the application or request for  
822 payment or reimbursement is received by the board not later than one  
823 year after the completion of all or substantially all of the work or  
824 activities necessary to prepare the plan or report required by the  
825 milestones set forth in section 7 of this act.

826 [(c)] (g) The Attorney General, upon the request of the board [,] or  
827 the commissioner, may institute an action in the superior court for the  
828 judicial district of Hartford to recover the amounts specified in this  
829 section from [the responsible party] any person who owns or operates  
830 an underground storage tank system at the time a release or suspected  
831 release emanates or occurs from such system or any person who owns  
832 the real property on which a release or suspected release emanates or  
833 occurs, provided such person owned the real property at or any time  
834 after the release or suspected release emanates or occurs until the time  
835 that a final remediation action report is submitted by a licensed  
836 environmental professional or approved by the commissioner  
837 pursuant to subdivision (7) of section 7 of this act, if: (1) Prior to the  
838 occurrence of the release, the underground storage tank or  
839 underground storage tank system from which the release emanated  
840 was required by regulations adopted under section 22a-449, as  
841 amended by this act, to [be the subject of] to submit a notification to  
842 the [Commissioner of Environmental Protection] commissioner but  
843 [the responsible party knowingly and intentionally failed to notify the  
844 commissioner] no such notification was provided; (2) the release  
845 results from a negligent, reckless, wilful, wanton or intentional act or  
846 omission of [a responsible] such party; [or] (3) the release occurs from  
847 an underground storage tank or system which is not in compliance  
848 with [an] a final order issued by the commissioner pursuant to this

849 chapter or [with the general statutes and regulations governing the  
850 installation, operation and maintenance of underground storage tanks  
851 and such lack of compliance was a proximate cause of such release] a  
852 final judgment issued by a court concerning non-compliance with a  
853 requirement of this chapter; or (4) payment has been made from the  
854 account, including payment to the commissioner pursuant to  
855 subsection (j) of this section, to a person other than a person against  
856 whom an action may be brought pursuant to this subsection. All costs  
857 to the state relating to actions to recover such payments, including, but  
858 not limited to, reasonable attorneys' fees, shall initially be paid from  
859 the underground storage tank petroleum clean-up account. In any  
860 recovery the board or the commissioner is entitled to recover from [a  
861 responsible party] such person (A) all payments made [by the board]  
862 from the account with respect to a release or suspected release,  
863 [including, but not limited to, payments to third parties,] (B) all  
864 payments made by the [Department of Environmental Protection]  
865 commissioner pursuant to subsection [(d)] (i) of this section with  
866 respect to a release or suspected release, (C) interest on such payments  
867 at a rate of ten per cent per year from the date such payments were  
868 made, and (D) all costs of the state relating to actions to recover such  
869 payments, including, but not limited to, reasonable attorneys' fees. All  
870 actions brought pursuant to this section shall have precedence in the  
871 order of trial, as provided in section 52-191. If the Attorney General has  
872 filed an action against a person seeking recovery of the amounts  
873 specified in this subsection or if the commissioner sends a person a  
874 demand letter regarding costs incurred by the state pursuant to section  
875 22a-451, any such person against whom an action has been brought or  
876 who receives a demand letter shall not submit an application or  
877 request for payment or reimbursement to the board seeking payment  
878 or reimbursement of any such amount sought by the Attorney General  
879 or by the commissioner. If any such application or request for payment  
880 or reimbursement is submitted, the board shall not take any action  
881 regarding any such application or request.

882 [(d)] (h) The [review] board shall render its decision not more than

883 ninety days after receipt of an application from a [responsible party or  
884 a third party] person, provided, in the case of a second or subsequent  
885 application, the board shall render its decision not more than forty-five  
886 days after receipt of such application. A copy of the decision shall be  
887 sent to the [Commissioner of Environmental Protection] commissioner  
888 and the [applicant or responsible] party seeking payment or  
889 reimbursement by certified mail, return receipt requested. The  
890 [Commissioner of Environmental Protection] commissioner or any  
891 person aggrieved by the decision of the board may, within twenty  
892 days from the date of issuance of such decision, request a hearing  
893 before the board in accordance with the provisions of chapter 54. After  
894 such hearing, the board shall consider the information submitted to it  
895 and affirm or modify its decision on the application. A copy of the  
896 affirmed or modified decision shall be sent to [the applicant or  
897 responsible party] all parties to the hearing by certified mail, return  
898 receipt requested. Once the board renders a decision regarding an  
899 application or request for payment or reimbursement and no hearing  
900 has been requested pursuant to this subsection regarding any such  
901 decision, the costs, expenses or other obligations addressed by any  
902 such decision shall not be resubmitted in any other application or  
903 request.

904 [(e)] (i) Whenever the commissioner determines that as a result of a  
905 release, as defined in section 22a-449a, or a suspected release, a clean-  
906 up is necessary, including, but not limited to, actions to prevent or  
907 abate pollution or a potential source of pollution and to provide  
908 potable drinking water, the commissioner may undertake such actions  
909 using not more than one million dollars from the underground storage  
910 tank petroleum clean-up account for each release or suspected release  
911 from an underground storage tank or an underground storage tank  
912 system for which the responsible party is the state or for which [the] a  
913 responsible party was or would have been required to demonstrate  
914 financial responsibility under 40 CFR Part 280.90 et seq., as said  
915 regulation was published in the Federal Register of October 26, 1988.  
916 [In addition, if a responsible party refuses to pay the first ten thousand

917 dollars of third party claims, and has not already paid ten thousand  
918 dollars of costs resulting from the release or suspected release, the  
919 commissioner shall, upon order of the board pursuant to this section,  
920 make payment or reimbursement of the first ten thousand dollars of  
921 third party claims, provided (1) no more than ten thousand dollars of  
922 third party claims shall be paid pursuant to this subsection for each  
923 release or suspected release from an underground storage tank system  
924 for which the responsible party is the state or for which the responsible  
925 party was or would have been required to demonstrate financial  
926 responsibility under 40 CFR Part 280.90 et seq., as said regulation was  
927 published in the Federal Register of October 26, 1988, and (2) that the  
928 board shall be entitled to recover such ten thousand dollars,  
929 notwithstanding the existence of the conditions specified in  
930 subdivisions (1) to (3), inclusive, of subsection (b) of this section.]

931 (j) (1) If through an initial application or request for payment or  
932 reimbursement received by the board before June 1, 2005, the board  
933 has determined that a party has paid or incurred costs, expenses or  
934 other obligations that are eligible for payment or reimbursement from  
935 the account, with respect to any supplemental application or request  
936 for payment or reimbursement the following shall apply. The  
937 commissioner may identify a category of activities, costs, expenses, or  
938 other obligations that are less than one hundred thousand dollars for  
939 which, in lieu of full payment, the board may approve a percentage of  
940 the costs, expenses or other obligations paid or incurred. In making  
941 any such recommendation to the board, the commissioner shall  
942 consider the amounts previously paid from the account and any other  
943 information the commissioner deems relevant. Any such percentage  
944 shall be not more than, but may be less than, ninety per cent of the  
945 average amount, as determined by the commissioner, previously paid  
946 from the account for any activity, cost, expense or obligation. The  
947 board shall approve or disapprove, but shall not modify, payment of  
948 the percentage recommended by the commissioner pursuant to this  
949 subdivision. The commissioner may, using the procedures specified in  
950 this subdivision, recommend changes to any percentage previously

951 approved by the board under this subdivision.

952 (2) If the board approves payment of the percentage recommended  
953 by the commissioner, a party with a supplemental application or  
954 request for payment or reimbursement may agree to accept the  
955 percentage payment approved by the board. Any such acceptance  
956 shall be in writing, signed by the party seeking payment or  
957 reimbursement and shall acknowledge that the party is agreeing to  
958 accept less than the full amount sought by such party for the costs,  
959 expenses or other obligations covered by such acceptance. If the  
960 commissioner has prescribed forms, any such acceptance shall be  
961 made using the forms prescribed by the commissioner. Once a  
962 completed written acceptance is received, the board shall, not later  
963 than ninety days after receiving such acceptance, determine whether to  
964 order payment or reimbursement from the account. Any such  
965 determination by the board shall be limited to whether the costs,  
966 expenses or other obligations are within those for which the board has  
967 approved payment pursuant to subdivision (1) of this subsection.

968 (3) Any amount ordered to be paid or reimbursed by the board shall  
969 be considered full payment for any such activity, expense or other  
970 obligation and a party shall not seek any additional reimbursement  
971 from the account for any such activity, expense or other obligation. The  
972 categories or activities for which the commissioner recommends  
973 payment of a percentage pursuant to this subsection may constitute all  
974 or a portion of the amounts sought in a supplemental application or  
975 supplemental request for payment or reimbursement.

976 (k) Notification to the commissioner pursuant to regulations  
977 adopted pursuant to section 22a-449, as amended by this act, shall  
978 constitute compliance with any regulation adopted pursuant to section  
979 22a-449e, as amended by this act, regarding notification to the board of  
980 a release.

981 Sec. 7. (NEW) (Effective from passage) Notwithstanding any provision  
982 of sections 22a-449a to 22a-449i, inclusive, of the general statutes, as

983 amended by this act, or any regulation adopted pursuant to said  
984 sections, except as provided for in subdivision (6) of this section, with  
985 respect to the investigation and remediation of a release, the  
986 underground storage tank clean-up account established pursuant to  
987 section 22a-449c of the general statutes, as amended by this act, shall  
988 be used to provide payment or reimbursement only when any of the  
989 following milestones are completed:

990 (1) A release response report prepared by an environmental  
991 professional, as defined in section 22a-133v of the general statutes, has  
992 been submitted to the Commissioner of Environmental Protection  
993 which report describes: (A) All initial response actions taken that are  
994 necessary to prevent an on-going release and to mitigate an explosion,  
995 fire or other safety hazard resulting from the release, (B) the results of  
996 an initial site investigation that determines the presence and extent of  
997 free product from the release, the potential for or existence of  
998 groundwater pollution from the release which threatens the quality of  
999 drinking water well or wells, and whether the release has resulted in  
1000 soil vapors or indoor air that threatens public health, and (C) all  
1001 interim actions taken and proposed to remove such free product to the  
1002 extent technically practicable, to provide potable water to any person  
1003 whose drinking water has been polluted by a substance from the  
1004 release which is above the groundwater protection criteria or above a  
1005 level determined by the Commissioner of Public Health to be an  
1006 unacceptable risk of injury to the health or safety of persons using such  
1007 groundwater as a public or private source of water for drinking or  
1008 other personal or domestic uses, whichever is more stringent, and to  
1009 mitigate any risk to public health from polluted soil vapor or indoor  
1010 air resulting from the release.

1011 (2) An interim remedial action report approved, in writing, by a  
1012 licensed environmental professional has been submitted to the  
1013 Commissioner of Environmental Protection or an interim remedial  
1014 action report has been approved, in writing, by the commissioner.  
1015 Such interim remedial action report shall describe in detail all interim  
1016 remedial action taken to: (A) Remove free product to the maximum

1017 extent technically practicable; (B) ensure that all persons whose  
1018 drinking water was polluted by the release have been provided  
1019 potable water; and (C) ensure that soil vapors which pose a risk to  
1020 public health are prevented from migrating into any overlying  
1021 buildings.

1022 (3) An investigation report and remedial action plan approved, in  
1023 writing, by a licensed environmental professional has been submitted  
1024 to the commissioner, or an investigation report and remedial action  
1025 plan has been approved, in writing, by the commissioner. Such  
1026 investigation report and remedial action plan shall include a detailed  
1027 description of an investigation which determines the existing and  
1028 potential extent and degree of soil, surface water, soil vapor and  
1029 groundwater pollution, on and off-site, resulting from the release and  
1030 describes all actions proposed to remediate soil, surface water, air or  
1031 groundwater polluted by the release in accordance with the  
1032 regulations adopted pursuant to section 22a-133k of the general  
1033 statutes.

1034 (4) A soil remedial action report approved, in writing, by a licensed  
1035 environmental professional has been submitted to the commissioner,  
1036 or a soil remedial action report has been approved, in writing, by the  
1037 commissioner. Such soil remedial action report shall describe in detail  
1038 the extent of soil pollution resulting from the release, all remedial  
1039 actions taken to abate such soil pollution, and all documentation that  
1040 demonstrates that such soil pollution has been remediated in  
1041 accordance with the regulations adopted pursuant to section 22a-133k  
1042 of the general statutes.

1043 (5) A groundwater remedial action progress report approved, in  
1044 writing, by a licensed environmental professional has been submitted  
1045 to the commissioner or a groundwater remedial action progress report  
1046 has been approved, in writing, by the commissioner. Such report may  
1047 only be submitted after all construction necessary to implement the  
1048 approved groundwater remedial actions have been completed and that  
1049 the groundwater remedial actions have been operated and monitored

1050 for one year. Such report shall include a detailed description of the  
1051 remedial actions, the results of groundwater or any other monitoring  
1052 conducted, an analysis of whether the remedial actions are effective,  
1053 and a proposal for any changes in the groundwater remedial actions  
1054 and monitoring that may be necessary to achieve compliance with the  
1055 regulations adopted pursuant to section 22a-133k of the general  
1056 statutes.

1057 (6) An annual groundwater remedial action progress report  
1058 approved, in writing, by a licensed environmental professional has  
1059 been submitted to the commissioner or approved, in writing, by the  
1060 commissioner. Such report shall include a detailed description of the  
1061 remedial actions, the results of groundwater or any other monitoring  
1062 conducted for the year covered by the report, an analysis of whether  
1063 the remedial actions are effective, and a proposal for any changes in  
1064 the groundwater remedial actions and monitoring that may be  
1065 necessary to achieve compliance with the regulations adopted  
1066 pursuant to section 22a-133k of the general statutes. A responsible  
1067 party of section 22a-449f of the general statutes, as amended by this  
1068 act, may submit to the board up to, but not more than, four separate  
1069 applications or requests for payment or reimbursement in a calendar  
1070 year regarding costs, expenses or obligations paid or incurred  
1071 concerning annual groundwater monitoring or compliance with this  
1072 subdivision.

1073 (7) A final remedial action report approved by a licensed  
1074 environmental professional has been submitted to the commissioner,  
1075 or a final remedial action report has been approved, in writing, by the  
1076 commissioner that documents that the release has been investigated in  
1077 accordance with prevailing standards and guidelines and that the soil,  
1078 surface water, groundwater and air polluted by the release has been  
1079 remediated in accordance with the regulations adopted pursuant to  
1080 section 22a-133k of the general statutes.

1081 (8) The commissioner may adopt regulations, in accordance with the  
1082 provisions of chapter 54 of the general statutes, establishing milestones

1083 for investigation and remediation of releases or suspected releases  
1084 from underground storage tank systems, including milestones that  
1085 differ from those set forth in this section. Upon the adoption of such  
1086 regulations, the milestones for investigation and remediation for which  
1087 payment or reimbursement is available from the account shall be those  
1088 set forth in the regulations.

1089 (9) This section shall apply to an application or request for  
1090 reimbursement or payment received by the board on or after October  
1091 1, 2005, regardless of when the release or suspected release occurred,  
1092 whether actions in response to the release or suspected release have  
1093 already occurred or whether prior applications or requests seeking  
1094 payment or reimbursement have already been submitted to the board.

1095 Sec. 8. (*Effective from passage*) Not later than one hundred eighty  
1096 days after the effective date of this section, the Commissioner of  
1097 Environmental Protection, in consultation with the board, shall  
1098 develop and implement a plan for processing applications submitted  
1099 to the board, with emphasis on applications that were submitted  
1100 before June 30, 2005. Such plan may include, but need not be limited  
1101 to, expedited procedures for processing certain categories of  
1102 applications, identifying, providing notice of and processing  
1103 incomplete applications, and providing assistance to applicants on  
1104 how to submit complete applications. At six-month intervals, until July  
1105 31, 2007, the commissioner shall provide the board with updates  
1106 regarding the implementation of such plan. On or before July 31, 2007,  
1107 the commissioner shall prepare a report describing the progress  
1108 regarding processing of applications that were submitted before June  
1109 30, 2005, estimated results achieved by utilizing new or revised  
1110 procedures, the number and amount of applications pending and any  
1111 recommendations for further improvements. Prior to implementing  
1112 the plan required by this section, the commissioner shall seek comment  
1113 from the public.

1114 Sec. 9. Section 145 of public act 03-6 of the June 30 special session, as  
1115 amended by section 1 of public act 04-244, is repealed. (*Effective from*

1116 *passage)*"

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-449
Sec. 2	<i>from passage</i>	22a-449a
Sec. 3	<i>from passage</i>	22a-449c
Sec. 4	<i>from passage</i>	22a-449d
Sec. 5	<i>from passage</i>	22a-449e
Sec. 6	<i>from passage</i>	22a-449f
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	Repealer section