



General Assembly

Amendment

January Session, 2005

LCO No. 7454

SB0115107454SD0

Offered by:

SEN. STILLMAN, 20th Dist.

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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 Section 22a-449 of the general statutes is repealed and the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 subsection (g) of this section after the regulations
100 take effect or additional requirements for an owner or operator of any
101 such system, and (C) requirements, in addition to the requirements
102 contained in subsection (g) of this section, relating to the prohibition of
103 deliveries to and the use of nonresidential underground storage tank
104 systems that are not in compliance with section 22a-449o or with the
105 requirements of this section and any regulations adopted under this
106 section.

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

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

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

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

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

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

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

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

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

185 As used in this section and sections 22a-449c to 22a-449m, inclusive,
186 and section 7 of this act:

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

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

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

215 or suspected release occurred or whether such person owned, leased,
216 operated, used or had an interest in the underground storage tank
217 system at the time the release or suspected release occurred, or (iii) is
218 affiliated with a person described in subclause (i) or (ii) of this
219 subparagraph through a direct or indirect familial relationship or any
220 contractual, corporate or financial relationship;

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

226 (5) "Underground storage tank system" means an underground
227 storage tank and any associated ancillary equipment and containment
228 system; [and]

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

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

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

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

246 shall be deposited in the Environmental Quality Fund and credited to
247 the underground storage tank petroleum clean-up account. Any
248 balance remaining in said account at the end of any fiscal year shall be
249 carried forward in said account for the fiscal year next succeeding.

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

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

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

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

314 (c) There is established a subaccount within the underground
315 storage tank petroleum clean-up account to be known as the "pay for
316 performance subaccount" with which the commissioner may
317 implement a program, in consultation with the board, in which
318 reimbursement or repayment in accordance with this section is based
319 upon the achievement of environmental milestones or results. The
320 commissioner, with the approval of the board, may enter into contracts
321 to implement any such program.

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

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

348 the board or made by the commissioner regarding any such
349 supplemental application or request for payment or reimbursement
350 received by the board after the five-year deadline established in this
351 subdivision.

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

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

379 (e) (1) Any person who has insurance, or a contract or other
380 agreement to provide payment or reimbursement for any costs,

381 expense or other obligation paid or incurred in response to a release or
382 suspected release may submit an application or request seeking
383 payment or reimbursement from the account to the board, provided
384 any such application or request for payment or reimbursement shall be
385 subject to all applicable requirements, including, but not limited to,
386 subdivision (7) of subsection (c) of section 22a-449f.

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

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

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

405 (a) There is established an Underground Storage Tank Petroleum
406 Clean-Up Account Review Board, [to review applications for
407 reimbursements and payments from the account established under
408 section 22a-449c.] Upon application for reimbursement or payment
409 pursuant to section 22a-449f, the board shall determine, [if a release
410 occurred and damage resulted from such release and the amount of
411 any such damage] based on the provisions of sections 22a-449a to 22a-
412 449i, inclusive, as amended by this act, and all regulations adopted

413 pursuant to said sections 22a-449a to 22a-449i, inclusive, whether or
414 not to order payment or reimbursement from the account. The board
415 shall have the authority to order payment from the residential
416 underground heating oil storage tank system clean-up subaccount to
417 registered contractors pursuant to section 22a-449l, or to owners
418 pursuant to section 22a-449n, for reasonable costs associated with the
419 remediation of a residential underground heating oil storage tank
420 system based on the guidelines established pursuant to subsection (c)
421 of this section; hold hearings, administer oaths, subpoena witnesses
422 and documents through its chairperson when authorized by the board;
423 designate an agent to perform such duties of the board as it deems
424 necessary except the duty to render a final decision to order
425 reimbursement or payment from the account; and provide by notice,
426 printed on any form, that any false statement made thereof or
427 pursuant thereto is punishable pursuant to section 53a-157b.

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

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

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

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

481 eligible costs incurred by the owner and paid to the registered
482 contractor for services associated with a remediation of a system prior
483 to July 1, 2001.

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

486 (a) The Commissioner of Environmental Protection, after
487 consultation with the members of the [review] board established by
488 section 22a-449d, as amended by this act, shall adopt regulations in
489 accordance with the provisions of chapter 54 setting forth procedures
490 for reimbursement and payment from the account established under
491 section 22a-449c, as amended by this act. Such regulations shall include
492 such provisions as the commissioner deems necessary to carry out the
493 purposes of sections 22a-449a to 22a-449h, inclusive, as amended by
494 this act, including, but not limited to, provisions for (1) notification of
495 eligible parties of the existence of the account; (2) records required for
496 submission of claims and reimbursement and payment; (3) periodic
497 and partial reimbursement and payment to enable responsible parties
498 to meet interim costs, expenses and obligations; and (4) reimbursement
499 and payment for costs, expenses and obligations incurred in
500 connection with releases or suspected releases, and incurred after July
501 5, 1989, for releases discovered before or after said date provided
502 reimbursement and payment shall not be made for costs, expenses and
503 obligations incurred by a responsible party on or before said date.

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

514 charged, as determined by the commissioner. Notwithstanding the
515 provisions of sections 22a-449a to 22a-449j, inclusive, as amended by
516 this act, or any regulation adopted by the commissioner pursuant to
517 this section, upon adoption of any such schedule, the amount to be
518 paid from the account for any labor, equipment, materials, services or
519 other costs, expenses or other obligations, shall not exceed the amount
520 established in any such schedule and such schedule may serve as
521 guidance with respect to any costs, expenses or other obligations paid
522 or incurred before the adoption of such schedule.

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

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

546 (d) An environmental professional, who has a currently valid and

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

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

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

577 (b) (1) In addition to all other applicable requirements, a person
578 seeking payment or reimbursement from the account shall
579 demonstrate that when the total costs, expenses or other obligations in

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

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

609 (3) Providing it is true and accurate, a licensed environmental
610 professional shall submit the following certification regarding any
611 approval provided under subdivision (1) of this subsection and section
612 7 of this act: "I hereby agree that all of the labor, equipment, materials,
613 services, and activities described in or covered by this certification was

614 appropriate under the circumstances to abate an emergency or was
615 performed as part of a plan specifically designed to ensure that the
616 release or suspected release is or has been investigated in accordance
617 with prevailing standards and guidelines and remediated consistent
618 with and to achieve compliance with the remediation standards
619 adopted under section 22a-133k.

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

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

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

703 (d) (1) Except as provided in this subsection, if at the time any
704 application or request for payment or reimbursement is submitted to
705 the board, including any supplemental application or request, there is
706 an underground storage tank system dispensing petroleum on the
707 property where the release or suspected release emanated or occurred,
708 such application or request shall not be deemed complete and shall not
709 be acted upon by the board unless such application or request includes
710 a summary of the compliance status of all the underground storage
711 tank systems on the subject property. Any such summary shall include
712 an evaluation of compliance with the design, construction, installation,
713 notification, general operating, release detecting, system upgrading,
714 abandonment and removal date requirements of the regulations
715 adopted pursuant to sections 22a-449, as amended by this act, and 22a-
716 449o and shall be prepared by an independent consultant on a form

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

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

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

751 performing a compliance evaluation, upon adoption of any such
752 schedule, the amount eligible for payment or reimbursement for
753 performing a compliance evaluation shall be the amount prescribed in
754 any such schedule.

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

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

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

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

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

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

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

817 2005.

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

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

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

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

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

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

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

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

953 this subdivision, recommend changes to any percentage previously
954 approved by the board under this subdivision.

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

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

979 (k) Notification to the commissioner pursuant to regulations
980 adopted pursuant to section 22a-449, as amended by this act, shall
981 constitute compliance with any regulation adopted pursuant to section
982 22a-449e, as amended by this act, regarding notification to the board of
983 a release.

984 Sec. 7. (NEW) (*Effective from passage*) Notwithstanding any provision

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

993 (1) A release response report prepared by an environmental
994 professional, as defined in section 22a-133v of the general statutes, has
995 been submitted to the Commissioner of Environmental Protection
996 which report describes: (A) All initial response actions taken that are
997 necessary to prevent an on-going release and to mitigate an explosion,
998 fire or other safety hazard resulting from the release, (B) the results of
999 an initial site investigation that determines the presence and extent of
1000 free product from the release, the potential for or existence of
1001 groundwater pollution from the release which threatens the quality of
1002 drinking water well or wells, and whether the release has resulted in
1003 soil vapors or indoor air that threatens public health, and (C) all
1004 interim actions taken and proposed to remove such free product to the
1005 extent technically practicable, to provide potable water to any person
1006 whose drinking water has been polluted by a substance from the
1007 release which is above the groundwater protection criteria or above a
1008 level determined by the Commissioner of Public Health to be an
1009 unacceptable risk of injury to the health or safety of persons using such
1010 groundwater as a public or private source of water for drinking or
1011 other personal or domestic uses, whichever is more stringent, and to
1012 mitigate any risk to public health from polluted soil vapor or indoor
1013 air resulting from the release.

1014 (2) An interim remedial action report approved, in writing, by a
1015 licensed environmental professional has been submitted to the
1016 Commissioner of Environmental Protection or an interim remedial
1017 action report has been approved, in writing, by the commissioner.
1018 Such interim remedial action report shall describe in detail all interim

1019 remedial action taken to: (A) Remove free product to the maximum
1020 extent technically practicable; (B) ensure that all persons whose
1021 drinking water was polluted by the release have been provided
1022 potable water; and (C) ensure that soil vapors which pose a risk to
1023 public health are prevented from migrating into any overlying
1024 buildings.

1025 (3) An investigation report and remedial action plan approved, in
1026 writing, by a licensed environmental professional has been submitted
1027 to the Commissioner of Environmental Protection, or an investigation
1028 report and remedial action plan has been approved, in writing, by the
1029 commissioner. Such investigation report and remedial action plan shall
1030 include a detailed description of an investigation which determines the
1031 existing and potential extent and degree of soil, surface water, soil
1032 vapor and groundwater pollution, on and off-site, resulting from the
1033 release and describes all actions proposed to remediate soil, surface
1034 water, air or groundwater polluted by the release in accordance with
1035 the regulations adopted pursuant to section 22a-133k of the general
1036 statutes.

1037 (4) A soil remedial action report approved, in writing, by a licensed
1038 environmental professional has been submitted to the Commissioner
1039 of Environmental Protection, or a soil remedial action report has been
1040 approved, in writing, by the commissioner. Such soil remedial action
1041 report shall describe in detail the extent of soil pollution resulting from
1042 the release, all remedial actions taken to abate such soil pollution, and
1043 all documentation that demonstrates that such soil pollution has been
1044 remediated in accordance with the regulations adopted pursuant to
1045 section 22a-133k of the general statutes.

1046 (5) A groundwater remedial action progress report approved, in
1047 writing, by a licensed environmental professional has been submitted
1048 to the Commissioner of Environmental Protection or a groundwater
1049 remedial action progress report has been approved, in writing, by the
1050 commissioner. Such report may only be submitted after all
1051 construction necessary to implement the approved groundwater

1052 remedial actions have been completed and that the groundwater
1053 remedial actions have been operated and monitored for one year. Such
1054 report shall include a detailed description of the remedial actions, the
1055 results of groundwater or any other monitoring conducted, an analysis
1056 of whether the remedial actions are effective, and a proposal for any
1057 changes in the groundwater remedial actions and monitoring that may
1058 be necessary to achieve compliance with the regulations adopted
1059 pursuant to section 22a-133k of the general statutes.

1060 (6) An annual groundwater remedial action progress report
1061 approved, in writing, by a licensed environmental professional has
1062 been submitted to the Commissioner of Environmental Protection or
1063 approved, in writing, by the commissioner. Such report shall include a
1064 detailed description of the remedial actions, the results of groundwater
1065 or any other monitoring conducted for the year covered by the report,
1066 an analysis of whether the remedial actions are effective, and a
1067 proposal for any changes in the groundwater remedial actions and
1068 monitoring that may be necessary to achieve compliance with the
1069 regulations adopted pursuant to section 22a-133k of the general
1070 statutes. A responsible party of section 22a-449f of the general statutes,
1071 as amended by this act, may submit to the board up to, but not more
1072 than, four separate applications or requests for payment or
1073 reimbursement in a calendar year regarding costs, expenses or
1074 obligations paid or incurred concerning annual groundwater
1075 monitoring or compliance with this subdivision.

1076 (7) A final remedial action report approved by a licensed
1077 environmental professional has been submitted to the Commissioner
1078 of Environmental Protection, or a final remedial action report has been
1079 approved, in writing, by the commissioner that documents that the
1080 release has been investigated in accordance with prevailing standards
1081 and guidelines and that the soil, surface water, groundwater and air
1082 polluted by the release has been remediated in accordance with the
1083 regulations adopted pursuant to section 22a-133k of the general
1084 statutes.

1085 (8) The Commissioner of Environmental Protection may adopt
1086 regulations, in accordance with the provisions of chapter 54 of the
1087 general statutes, establishing milestones for investigation and
1088 remediation of releases or suspected releases from underground
1089 storage tank systems, including milestones that differ from those set
1090 forth in this section. Upon the adoption of such regulations, the
1091 milestones for investigation and remediation for which payment or
1092 reimbursement is available from the account shall be those set forth in
1093 the regulations.

1094 (9) This section shall apply to an application or request for
1095 reimbursement or payment received by the board on or after October
1096 1, 2005, regardless of when the release or suspected release occurred,
1097 whether actions in response to the release or suspected release have
1098 already occurred or whether prior applications or requests seeking
1099 payment or reimbursement have already been submitted to the board.

1100 Sec. 8. (*Effective from passage*) Not later than one hundred eighty
1101 days after the effective date of this section, the Commissioner of
1102 Environmental Protection, in consultation with the board, shall
1103 develop and implement a plan for processing applications submitted
1104 to the board, with emphasis on applications that were submitted
1105 before June 30, 2005. Such plan may include, but need not be limited
1106 to, expedited procedures for processing certain categories of
1107 applications, identifying, providing notice of and processing
1108 incomplete applications, and providing assistance to applicants on
1109 how to submit complete applications. At six-month intervals, until July
1110 31, 2007, the commissioner shall provide the board with updates
1111 regarding the implementation of such plan. On or before July 31, 2007,
1112 the commissioner shall prepare a report describing the progress
1113 regarding processing of applications that were submitted before June
1114 30, 2005, estimated results achieved by utilizing new or revised
1115 procedures, the number and amount of applications pending and any
1116 recommendations for further improvements. Prior to implementing
1117 the plan required by this section, the commissioner shall seek comment
1118 from the public.

1119 Sec. 9. Section 145 of public act 03-6 of the June 30 special session, as
 1120 amended by section 1 of public act 04-244, is repealed. (*Effective from*
 1121 *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