



STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – February 22, 2010
Environment Committee

Testimony Submitted by Commissioner Amey W. Marrella
Department of Environmental Protection

Raised House Bill No. 5119 - AN ACT CONCERNING MINOR REVISIONS TO THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP ACCOUNT AND GROUNDWATER POLLUTION ABATEMENT STATUTES

Thank you for the opportunity to present testimony regarding Raised House Bill No. 5119, AN ACT CONCERNING MINOR REVISIONS TO THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP ACCOUNT AND GROUNDWATER POLLUTION ABATEMENT STATUTES.

We appreciate the Committee's willingness to raise this bill at the request of the Department of Environmental Protection (Department). This proposal, that we strongly support, would provide cost savings to the state in two ways. First, this bill would ensure that clean up funds (reimbursements for cleaning up primarily gasoline station sites) are not used by responsible parties just to reimburse the state when the responsible party fails to clean up the site and state had to incur costs performing the cleanup. Second, this bill clarifies the groundwater pollution abatement statute by allowing a homeowner to keep a water filtration unit that was installed by the Department where the unit is no longer needed for its original purpose and where the Department determines it is cost effective for the state to leave the system with the homeowner.

Section 1 of the bill amends the underground storage tank reimbursement program. This program was established in 1989 to satisfy federal financial assurance requirements for underground tank owners and operators. Since its inception, the program has awarded over \$190 million to reimburse owners and operators for costs associated with the cleanup of contamination from leaking underground storage tanks. However, the program was never intended to be used by applicants to circumvent the state's cost recovery provisions and avoid their cleanup obligations.

The state incurs costs in such situations when the responsible party fails to act promptly to respond to a release of petroleum. The state has to perform the clean up and then seek cost recovery from the responsible party. Sometimes this requires that the Department to file a lien on the property, a time consuming and expensive undertaking. Thus, the ability to bar recovery of such costs when a responsible party does respond in a timely and appropriate manner to a release would provide applicants seeking reimbursement from the program with greater incentives to properly maintain their underground storage tank (UST) compliance and to promptly address any releases. With the recent reduction of funding for the program, barring such recovery would also preserve funds for applicants that are complying with their obligations to promptly investigate and remediate their release(s).

In addition, this bill minimizes the chance that Department staff will have to spend substantial time and general fund monies to remediate a pollution release, and then spend substantial time to seek recovery of the funds, only to face a claim by a recalcitrant responsible party that general funds in the UST account should be used to pay the state's response costs.

This bill before you today ensures that applicants have an incentive both to maintain UST compliance for preventing releases, and to promptly remediate their UST releases, while preserving funding for applicants that are complying with their obligations. A few, but important, drafting amendments are needed to the bill to clarify that the program will continue to cover cleanup costs at all sites voluntarily reported to the Department. With these amendments, the Department strongly supports this section of the bill.

Section 2 is an amendment to the groundwater pollution abatement statute, and provides an efficient mechanism for the Department to allow a homeowner to keep a filtration system that the Department installed on their drinking water well to filter contaminated drinking water. After the Department determines the filter is no longer needed or no longer subject to state monitoring and maintenance, some homeowners wish to keep the filter. Removal by the Department would incur additional costs to the state with no benefit since the filter units usually cannot be cost-effectively reused at other properties. In such situations, it is more cost-effective for the state to dispose of the filter by allowing the owner to keep it. This bill would allow that.

In summary, the Department strongly supports the bill, with the clarifications referenced in Section 1.

Thank you for the opportunity to present the Department's views on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at (860) 424-3401 or Robert.LaFrance@ct.gov.