



March 16, 2012

Co-Chair Edward Meyer  
Co-Chair Richard Roy  
Senator Andrew Roraback  
Representative Clark Chapin

Environment Committee:

We are submitting testimony in **opposition to S.B. 375, AN ACT CONCERNING REIMBURSEMENT UNDER THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM** and in **support of H.B. 5082, AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION FOR THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM.**

The Independent Connecticut Petroleum Association (ICPA) represents 576 petroleum marketers and their associated business in Connecticut. ICPA members employ over 13,000 people in our state and provide over 1,000 convenience stores with gasoline. The gasoline industry in our state contributes \$1.3 billion in revenue annually through the gasoline excise tax, petroleum gross earnings tax, sales tax, cigarette tax, income taxes, and corporate taxes just to name a few.

We are testifying today in part because of the Department of Energy and Environmental Protections failure to work with us to come up with a solution that serves local businesses, the state and the environment.

Attached is a letter from the Environmental Protection Agency (EPA) dated July 6, 2011 informing DEEP that the Tank Program was in "**dire condition**" and the EPA must "**seriously reconsider its approval**". The letter provides an opportunity for DEEP to come up with a plan to fix its "**deficiencies**" so that tank owners can remain in compliance with federal law.

The industry did not become aware of this letter until August when we were notified directly by EPA. At that time we asked DEEP to implement a stakeholder's process so that we could work through the issues that plague the program.

After several assurances that DEEP would form a stakeholders group that would meet throughout the fall and winter leading up to 2012 legislative session - that process never materialized. The bill before you today fails the state in every way because DEEP did not keep their word to work with us.

For the majority of tank owners in Connecticut, S.B. 375 basically does two things – it pays approved claims only 20 cents on the dollar and it shuts off access for new claims to be submitted.

Attached is a document that demonstrates the “financial effect” of S.B. 375 on an average tank claim. If passed, S.B. 375 would only pay a tank owner \$18,480 for a claim that was submitted for \$142,000. If a private insurance company treated a consumer like this the Attorney General would launch an investigation and the consumer would sue the insurer.

Every insurance company in the country has told us that they can not and will not insure properties with existing contamination. Insurance companies often tell us that they “do not insure burning buildings that were not covered before they went up in flames” and insuring a property that is contaminated is viewed the very same way.

If S.B. 375 passes, DEEP will stop accepting applications and EPA (see attached EPA letter dated January 26, 2012) will pull their recognition on May 9, 2012. This will leave countless tank owners out of compliance with federal law and with no other option but to close.

Closure means that cleanup stop, less competition at the pump, higher gas prices, loss of jobs and reduced local and state tax revenue!

Attached is an amendment that restores the Tank Program to its original state that was approved by EPA in 1991. It provides a dedicated revenue stream to pay claims and allows tank owners to remain in compliance with the law.

If we do not fix this bill, Connecticut will be the first state in the country that will lose its federal recognition. Our industry is committed to finding a solution that works for businesses and the state. We have several ideas based on successful programs in other states that could save money and we would like the opportunity to explore how they can be implemented here, but we first need to stop DEEP’s effort to end the program.

We ask that the Environment Committee **oppose S.B. 375, AN ACT CONCERNING REIMBURSEMENT UNDER THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM** and consider how we can work with H.B. 5082, **AN ACT APPROPRIATING FUNDS TO THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION FOR THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM** and get the Tank Program back on track.

Respectfully,

Christian A. Herb  
Vice President



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

January 26, 2012

Betsey Wingfield, Chief  
Bureau of Water Protection and Land Reuse  
CT Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Dear Ms. Wingfield:

As you know, we continue to discuss EPA's concerns regarding CT DEEP's UST Petroleum Clean-up Program state fund. Specifically, we have discussed the state fund's current deficiencies and CT DEEP's options to address the viability of the state fund as a financial responsibility mechanism.

I understand that CT DEEP intends to finalize recommendations in anticipation of the upcoming February – May 2012 legislative session. There are several possible paths the State could take, including:

- secure adequate funding to meet both existing obligations and any future eligible obligations;
- sunset the fund and require other financial responsibility mechanisms;
- some combination or a hybrid option

EPA expects that all eligible releases that have already occurred, or will occur up until the date the existing program ceases to be a financial responsibility mechanism, will be covered up to the minimum amounts required by 40 CFR 280.90 – Subpart H – Financial Responsibility.

I applaud your work to address this difficult topic, and we look forward to receiving and working with you on these recommendations. Please note that given the dire condition of the fund, it is critical that this issue be addressed in a timely fashion. EPA will begin the process of withdrawing approval of the CT DEEP Program state fund as a mechanism of financial responsibility should a solution not be achieved by the end of the legislative session on May 9, 2012.

I look forward to receiving the state's recommendations in the near future. Please contact me at (617) 918-1201 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "James T. Owens, III".

James T. Owens, III, Director  
Office of Site Remediation and Restoration

cc: Patrick Bowe/Yvonne Bolton/Peter Zack, CT DEEP  
Carolyn Hoskinson, EPA OUST



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

July 6, 2011

Betsey Wingfield, Chief  
Bureau of Water Protection and Land Reuse  
CT Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Dear Ms. Wingfield:

My staff has alerted me to the current dire condition of your agency's Underground Storage Tank (UST) Petroleum Cleanup Program's reimbursement fund.

My current understanding is the fund has been allocated approximately \$250,000 for each of the next two fiscal years (FY 12 and FY13). Yet the fund has approximately \$14 million in claims reviewed and approved for payment/reimbursement by the fund's review board, and over \$70 million in submitted claims waiting to be reviewed. At current funding levels, most owners and operators will not receive their reimbursement in their lifetime. Clearly, in its current condition, the use of the state fund as a means of financial responsibility (FR) does not encourage, or in some cases enable, releases to be addressed promptly. The failure of this FR mechanism could lead to less timely cleanups, increased migration of contamination, and a threat to more receptors in the immediate area of the release, including valuable drinking water resources. Approximately sixty percent of Connecticut's population relies solely on groundwater as their drinking water source. It is crucial that cleanups of petroleum releases from USTs be addressed as quickly as possible to avoid significant degradation of groundwater.

Additionally, we have received complaints from owners and operators regarding their extended wait time for reimbursement of their already approved claims on the fund. They have cited the financial pressures this has placed on their small businesses, and some have mentioned their inability to continue the cleanup work at their site having exhausted their financial options.

As you know, federal regulations (40 CFR 280.90 Subpart H – Financial Responsibility) require that UST owners and operators demonstrate financial responsibility for the costs of corrective action and compensation of third parties arising from release of petroleum from USTs. The financial responsibility requirements are meant to ensure that owners and operators can respond promptly to cleanup releases and to compensate third parties for any injuries or damages associated with the releases.

In reviewing and approving the CT state fund as an allowable FR mechanism in 1991, EPA considered whether the fund would serve as an adequate and reliable financial assurance for the costs of UST releases. Some of the considerations in our review were the sufficiency of funds to cover the costs of releases, and the availability of funds for corrective action and third party liability.

Due to the current state of your agency's Petroleum UST Cleanup fund, EPA must seriously reconsider its approval of the fund as a viable financial responsibility mechanism for UST owners and operators.

Toll Free • 1-888-372-7341

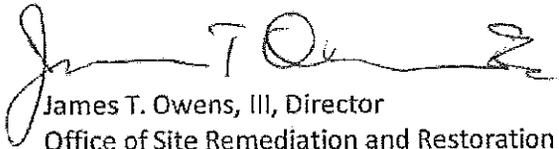
Internet Address (URL) • <http://www.epa.gov/region1>

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To accomplish this, EPA requests that the state submit a detailed plan outlining the actions it will take to address the fund's current deficiencies. If EPA determines that the plan will meet the criteria outlined above within an acceptable timeframe, then the fund may continue to serve as a mechanism that UST owners and operators may use to demonstrate financial responsibility. If the plan is insufficient and EPA decides to withdraw its approval of the fund as an allowable FR mechanism, CT UST owners and operators must have one of the other allowable mechanisms in place (i.e., financial test of self assurance, guarantee, insurance or risk group coverage, surety bond, etc.) prior to EPA's withdrawal date. CT DEEP must also submit an updated plan for ensuring proper oversight and enforcement of the financial responsibility requirement.

I look forward to your prompt reply. Please contact me at (617) 918-1201, Stuart Gray at (617) 918-1302 or Beth Deabay at (617)918-1343 with any questions.

Sincerely,



James T. Owens, III, Director  
Office of Site Remediation and Restoration

cc: Pat Bowe, Director, CT DEEP Remediation Division  
Carolyn Hoskinson, Director, OUST, EPA Headquarters



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

*certify 15,000 by 10/25  
immediate review  
average  
for 10,000*

November 29, 1989

Mr. Richard J. Barlow, Bureau Chief  
Waste Management Bureau  
CT Department of Environmental Protection  
State Office Building  
165 Capitol Avenue  
Hartford, CT 06106

Dear Mr. Barlow:

Thank you for your letter, dated October 16, 1989, from Commissioner Carothers requesting approval of the Connecticut Underground Storage Tank Petroleum Cleanup Fund (Cleanup Fund) as a financial assurance mechanism under 40 C.F.R. Section 280.101. We have reviewed Public Act No. 89-373, which creates the fund in conjunction with the Final Guidance for Reviewing State Funds for Financial Responsibility issued by EPA's Office of Underground Storage Tanks on November 17, 1989. The evaluation of a State fund under 40 C.F.R. Section 280.101(b) considers: certainty of the availability of funds for taking corrective action and/or for compensating third parties; the amount of funds that will be made available; and the types of costs covered. Consistent with this requirement, we offer the following comments:

SUFFICIENCY AS AN APPROVABLE MECHANISM UNDER 40 CFR 280.101

A. Funding Source

Connecticut has imposed a quarterly tax on petroleum distributors of 3% of gross earnings, one third of which is dedicated to the Connecticut Cleanup Fund. This source appears to be reasonably certain and stable.

This funding source does not rely on periodic appropriations. Regardless of whether or not the Fund has exceeded its financial ceiling amount of \$15 million, the tax remains in place, resulting in an easily accessed source of funds if the Fund falls below its financial floor of \$5 million. We would be interested to know the balance of the Cleanup Fund to date.

B. Amount of Fund

The balance of the Fund is examined monthly, and the funding from the quarterly tax is reinstated should the Fund balance

drop below \$5 million. It is uncertain whether or not the size of the Connecticut Fund will be sufficient to keep pace with the rate of expenditures and subsequent withdrawals from the Fund.

It is difficult, without more information, to assess whether or not the amounts will be sufficient. For instance, it would be helpful to know what projections the state has made as to the anticipated rate of expenditures out of the fund and projected flow of revenues into the fund.

### C. Coverage Provided

#### \* Partial Coverage Corrective Action and Third-Party Liability Fund.

The Connecticut Fund provides assurance to responsible parties for both corrective action and third-party damages. The Fund is a partial coverage fund, in that the State covers only between \$10,000 and \$1 million per release. In order to meet the Federal financial responsibility requirements, tank owners and operators (O/Os) will have to obtain another mechanism to cover the first \$10,000. Connecticut may wish to consider developing a financial self-assurance test to help O/Os fulfill this requirement. Otherwise, O/Os can use any of the mechanisms allowed in the Federal financial responsibility regulations. The state should also plan on adopting comparable state rules "no less stringent" than 40 CFR 280.90 through 280.112.

#### \* Aggregated Coverage

The Connecticut Fund does not limit aggregate coverage; therefore, we assume that the Fund will cover the O/O for an unlimited number and dollar amount of releases in a year. This coverage is acceptable, because it exceeds the \$1 million or \$2 million aggregate required by the Federal regulations.

#### \* Method and Timing of Corrective Action Payments

It is unclear how Connecticut plans to make payments from its fund. Our concern is that O/Os may not have the resources, even in small increments, to pay for the costs of a cleanup up front, despite the promise of reimbursement.

In order to receive approval, Connecticut must implement at least one of the following procedures if an O/O is unable or unwilling to pay incremental amounts above the \$10,000 deductible.

- Pay an O/Os contractor directly w/ O/O's funds.

- Pay an O/O as bills are received from this contractor
- Pay an O/O and his contractor jointly
- Undertake a State-lead cleanup

The first three provisions could be demonstrated by a letter from an appropriate Connecticut Official. The last provision may require a statutory amendment. Any one of these provisions would ensure that O/Os will not have to expend more than their deductible amounts prior to being reimbursed.

If Connecticut has an underground storage tank emergency response fund that will be accessed when an O/O is unable or unwilling to cover the incremental costs of a cleanup, Connecticut may be able to use it in conjunction with its Clean-up Fund to provide assurance from \$10,000 to \$1 million. Similarly, the state will need access to some funding source for the first dollar coverage, if the owner or operator defaults the \$10,000 deductible. If the State chooses one of these options, we will need to evaluate its acceptability as a financial assurance mechanism.

\* Method and Timing of Third-Party Liability Payments

Third parties are eligible for direct payments from the Fund if the responsible party denies there was a release or does not apply to the Fund for reimbursement. This provision constitutes an acceptable form of payment for third-party liability.

D. Eligibility

The Connecticut Fund provides unlimited eligibility to all responsible parties who are subject to the Federal financial responsibility regulations for underground storage tanks.

Connecticut has stipulated that responsible parties who do not meet certain criteria will be subject to subrogation. We assume that the Fund initially will pay cleanup and third-party costs between \$10,000 and \$1 million, regardless of whether Connecticut plans to recover these costs at a later date. We need further clarification of this point.

ADDITIONAL COMMENTS

At some time, Connecticut may want to amend its statute to cover non-responsible as well as responsible parties. Reimbursing only responsible parties may unfairly penalize those who are in good faith e.g., those O/O who conduct site investigations only to find that they are not, in fact, responsible. Connecticut may appear to reinforce this discrepancy by stipulating that

reimbursements can only be made if a release actually occurred.

CONCLUSION

In conclusion, we are encouraged by Connecticut's progress toward developing financial responsibility assurance, as reflected by the passage of Public Act No. 89-373, creating the Cleanup Fund. However, the statute can not stand alone as an approvable financial assurance mechanism. The Review Board needs to be appointed pursuant to Section 5(b). Soon thereafter, regulations need to be adopted by the Commissioner to fully delineate and implement the statute and be consistent with the requirements of 40 C.F.R. Section 280.101.

The Agency cannot approve the State Fund until additional information identified above is submitted to this office. However, the federal regulations specify at 40 CFR 280.101 (c) that owners and operators will be deemed in compliance with the financial responsibility requirement while the state prepares its response to these issues. We are prepared to assist you in amending your statutes or reviewing implementing regulations as necessary. ) stupid

If you should have any questions or further assistance, please contact Jonathan M. Walker, of my staff, at (617) 573-9602 or Martha Monell, Esq., of Office of Regional Counsel at (617) 565-3320.

Sincerely,

  
William R. Torrey, Chief  
Office of Underground Storage Tanks

cc: Martha Monell, ORC  
Scott Deshefy, DEP ✓



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

RECEIVED  
JUL 27 1991

July 26, 1991

Timothy R.E. Keeney, Commissioner  
Department of Environmental Protection  
165 Capitol Avenue  
Hartford, Connecticut 06106

Dept. of Environmental Protection  
Office of the Commissioner

JUL 31 1991

Dear Commissioner Keeney:

Department of Environmental Protection  
Waste Management Bureau  
Office of Bureau Chief

Your letter received July 11, 1991, requests formal approval of Connecticut's Underground Storage Tank Petroleum Clean-up Fund ("the Fund") as an allowable financial assurance mechanism under 40 C.F.R. 280.101. I am pleased to inform you that we have reviewed the Fund and approve it as meeting EPA's requirements for taking corrective action and providing third party liability coverage to underground storage tank owners when there is a release.

The Fund will be used to satisfy the financial responsibility requirements for underground storage tank owners by providing coverage up to \$1 million for taking corrective actions and up to \$1 million for third party liability costs, both subject to a \$10,000 deductible. Owners must establish financial responsibility for the deductible amount by any one of the following: insurance, guarantee, surety bond, letter of credit or qualification as a self-insurer. DEP can access the Fund to take corrective action or provide the first \$10,000 for clean-up or third party damages, in the event the responsible party is unable or unavailable to so do.

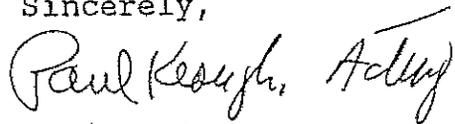
Within sixty days after receipt of this letter, the state must provide to each owner for which it is assuming financial responsibility a letter or certificate describing the nature of the state's assumption of responsibility. This notification must include the facility's name and address and notify the owner of the amount of coverage assured by the state for taking corrective actions and third party liability costs, including notice that the owner is responsible for the initial \$10,000 of these costs. The owner must maintain this letter or certificate on file as proof of financial responsibility.

Your department is to be commended for its diligence in pursuing the legislative amendments necessary for the approval of the Fund as a financial assurance mechanism, while also promoting responsible actions by underground storage tank owners and operators. Moreover, the analysis of projected revenues and expenditures provided by your staff addresses our concerns regarding the viability of the Fund, which appears to be



financially sound. If you have any further questions please contact Pat O'Leary of the Office of Government Relations at (617) 565-9125.

Sincerely,

A handwritten signature in cursive script that reads "Paul Keough, Acting". The signature is written in dark ink and is positioned above the typed name.

Julie Belaga  
Regional Administrator

## The Financial Effect of S.B. 375

Average claim -	\$142,000*
Deductable -	<b>- \$10,000</b>
Sub-total -	\$132,000

Average DEEP Denial of claim 30%** -	<b>- \$39,600</b>
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<u>Subtotal -</u>	<u>\$92,400</u>
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S.B 375 pays 20 cents on the dollar -	<b>- \$73,920</b>
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Final reimbursement for an initial claim of \$142,000 =	<b>\$18,480</b>
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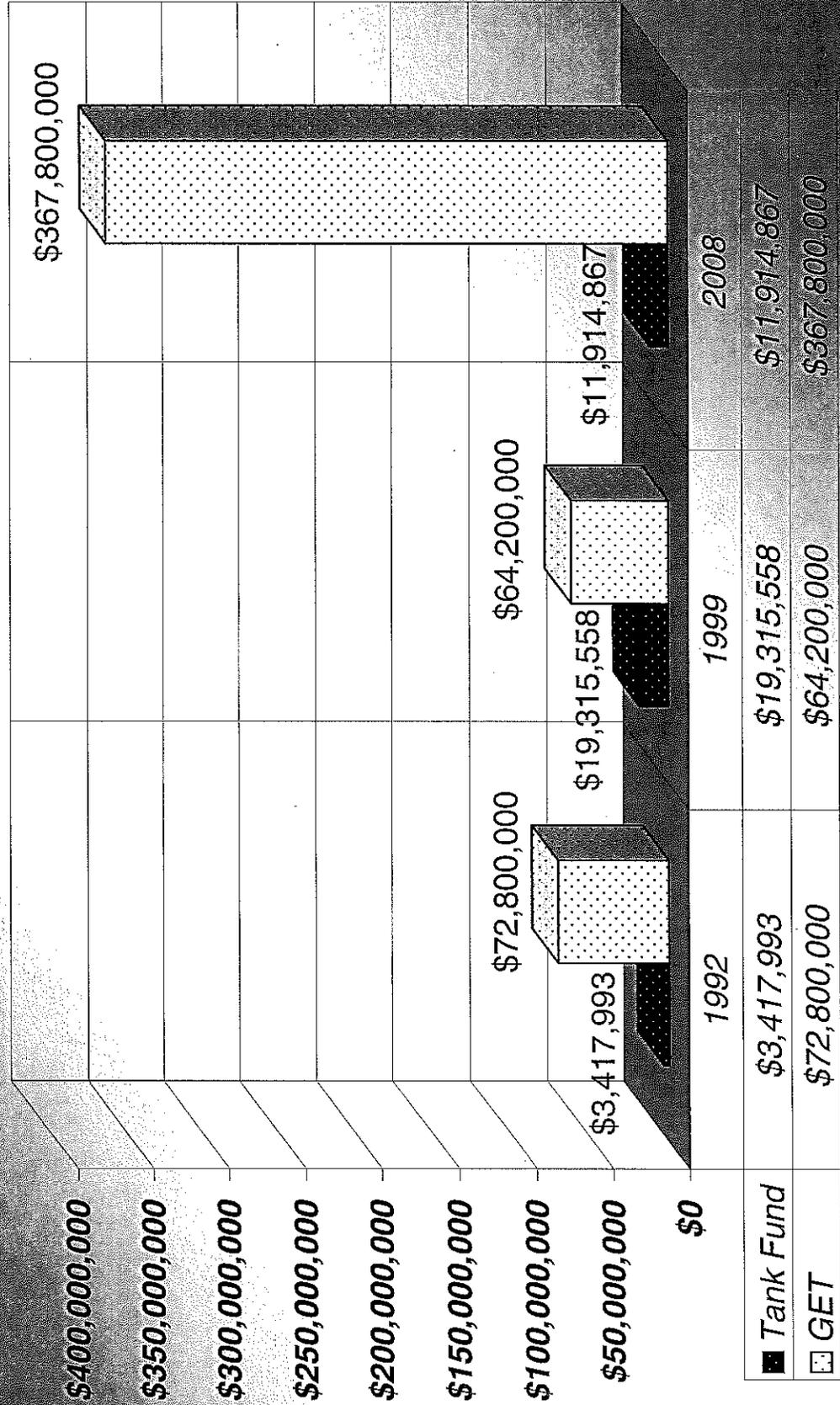
If passed, S.B. 375 would reduce a tank owner's insurance claim from \$142,000 to \$18,480.

The quickest way to drive existing businesses into bankruptcy and keep new businesses from investing in Connecticut would be to pass S.B. 375 into law.

\* \$142,000 is approximately the average claim against the Tank Program

\*\* 30% is approximately the average deduction the DEEP reduces claims by

# Petroleum Gross Earnings Tax Revenue vs. Commercial Tank Fund Expenditures



**AN ACT CONCERNING REIMBURSEMENT UNDER THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 22a-2d of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) The Department of Energy and Environmental Protection shall constitute a successor department to the Department of Environmental Protection and the Department of Public Utility Control in accordance with the provisions of sections 4-38d, 4-38e and 4-39.

~~(2) The Department of Energy and Environmental Protection shall constitute a successor department to the Underground Storage Tank Petroleum Clean Up Review Board in accordance with the provisions of sections 4-38d, 4-38e and 4-39.~~

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

As used in this section and sections 22a-449c to 22a-449m, inclusive, and 22a-449p, ~~and sections 12 and 13 of this act:~~

- (1) "Petroleum" means crude oil, crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils and diesel fuels;
- (2) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of petroleum from any underground storage tank or underground storage tank system;
- (3) "Responsible party" means (A) for an application or request for payment or reimbursement received by the board before July 1, 2005, or for a determination made by the board before July 1, 2005, regarding a person's status as a responsible party or a third party with respect to a specific release or suspected release, any person who owns or operates an underground storage tank or underground storage tank system from which a release or suspected release emanates, (B) for an application or request for payment or reimbursement received by the board on or after July 1, 2005, any person who (i) at any time owns, leases, uses or has an interest in the real property on which an underground storage tank system is or was located from which there is or has been a release or suspected release, regardless of when the release or suspected

release occurred, or whether such person owned, leased, used or had an interest in the real property at the time the release or suspected release occurred, or whether such person owned, operated, leased or used the underground storage tank system from which the release or suspected release occurred, (ii) at any time owns, leases, operates, uses, or has an interest in an underground storage tank system from which there is or has been a release or suspected release, regardless of when the release or suspected release occurred or whether such person owned, leased, operated, used or had an interest in the underground storage tank system at the time the release or suspected release occurred, or (iii) is affiliated with a person described in clause (i) or (ii) of this subparagraph through a direct or indirect familial relationship or any contractual, corporate or financial relationship;

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

(5) "Underground storage tank system" means an underground storage tank and any associated ancillary equipment and containment system;

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

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

(8) "Municipal applicant" means any town, city or borough, whether consolidated or unconsolidated, that has filed an application for payment or reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as amended by this act, or regulations thereunder;

(9) "Small station applicant" means an applicant who owns or owned, operates or operated, leases or leased, uses or used, or has or had an interest in four or less separate parcels of real property within or outside the state on which an underground storage tank system is or was located, who has filed an application for payment or reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as amended by this act, or regulations thereunder;

(10) "Mid-size station applicant" means an applicant who owns or owned, operates or operated, leases or leased, uses or used, or has or had an interest in five to ninety nine separate parcels of real property within or outside the state on which an underground storage tank system is or was located, who has filed an application for payment or reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as amended by this act, or regulations thereunder;

(11) "Large station applicant" means an applicant who owns or owned, operates or operated, leases or leased, uses or used, or has or had an interest in one hundred or more separate parcels of real property within or outside the state on which an underground storage tank system is or was located or any other applicant that does not meet the criteria specified in subdivision (8), (9) or (10) of this section, who has filed an application for payment or reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as amended by this act, or regulations thereunder;

(12)(8) "Innocent affected party" means any person who owns, operates, leases, uses or has an interest in real property that is adjacent, abutting or near real property that has been affected by an underground storage tank system release and who was not the responsible party for such release; and

(13)(9) "Applicant" means any person submitting an application, including any supplemental application, for payment or reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as amended by this act, or regulations thereunder.

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

(a) (1) There is established an underground storage tank petroleum clean-up program. The Connecticut Commercial Tank Insurance Fund is established to be used by the department as a nonlapsing, revolving fund to enable owners of commercial underground petroleum storage tanks to meet the federal requirements to possess "evidence of financial responsibility," the ability to demonstrate the financial wherewithal to clean up discharges and compensate third-parties for damages sustained as a result of discharges from underground petroleum storage tanks as required by 42 U.S.C. § 6991b (d), as applicants pursuant to sections 22a-449a to 22a-449g, inclusive, as amended by this act, or regulations thereunder.

The balance in the fund is limited to \$15,000,000. To this fund are credited all assessments and other fees from section 12-587 of the general statutes on the sale of petroleum products gross earnings. To this fund are charged any and all expenses of the department related to this subchapter, including administrative expenses, payment of 3rd-party damages covered by this subchapter, costs of removal of discharges of oil and costs of cleanup of discharges from underground storage facilities, including, but not limited to, restoration of water supplies and any obligations of the State. The fund may be used only for the purposes specified in this subchapter and may not be diverted for any other use by the department, the Governor or the Legislature.

(i.) Funding. Funding for the Connecticut Commercial Tank Insurance Fund is as follows.

A. Revenues from the assessment under section 12-587 of the general statutes on the sale of petroleum products gross earnings;

B. When the fund balance reaches \$15,000,000, the transfer of funds under paragraph A abates. When the commissioner projects that the fund balance will reach \$5,000,000, the commissioner must provide a 15-day advance notice to restore transfers under paragraph A. The \$15,000,000 fund limit may be exceeded to accept transfers received after the 15-day notice has been issued. When the fund balance is reduced to \$5,000,000, the transfers under paragraph A are reimposed.

(2) The program shall provide money for reimbursement or payment pursuant to section 22a-449f ~~and section 12 of this act~~, ~~within available appropriations~~, to responsible parties or parties supplying goods or services, for costs, expenses and other obligations paid or incurred, as the case may be, as a result of releases, and suspected releases, costs of investigation and remediation of releases and suspected releases, and for claims by a person other than a responsible party for bodily injury, property damage and damage to natural resources that have been finally adjudicated or settled with the prior written consent of the board ~~Commissioner of Energy and Environmental Protection~~. The commissioner may also make payment to an assignee who is in the business of receiving assignments of amounts approved by the board ~~commissioner~~, but not yet paid from the account, provided the party making any such assignment, using a form approved by the commissioner, directs the commissioner to pay such assignee, that no cost of any assignment shall be borne by the state and that the state and its agencies shall not bear any liability with respect to any such assignment.

(3) Notwithstanding the provisions of this section regarding reimbursements of parties pursuant to section 22a-449f and regulations adopted pursuant to section 22a-449e, and regardless of when an application for payment or reimbursement from the program may have been submitted to the board ~~commissioner~~,

payment or reimbursement shall be made in accordance with the following: (A) After June 1, 2004, no payment or reimbursement shall be made for any costs, expenses and other obligations paid or incurred for remediation, including any monitoring to determine the effectiveness of the remediation, of a release to levels more stringent than or beyond those specified in the remediation standards established pursuant to section 22a-133k, except to the extent the applicant demonstrates that it has been directed otherwise, in writing, by the commissioner; (B) after June 1, 2005, no payment or reimbursement shall be made to any person for diminution in property value or interest, provided that reimbursement for interest accrued on attorneys' fees may be permitted if an application seeking interest accrued on attorneys' fees was submitted to the commissioner on or before March 31, 2003, and such application has been tabled by the board ~~commissioner~~ for three or more years; and (C) after June 1, 2005, no payment or reimbursement shall be made for attorneys' fees or other costs of legal representation paid or incurred as a result of a release or suspected release (i) in excess of five thousand dollars to any responsible party, (ii) in excess of ten thousand dollars to any person other than a responsible party, and (iii) by a responsible party regarding the defense of claims brought by another person, except that applications for reimbursement filed on or before June 30, 2005, shall not be subject to the limitations for reimbursement imposed by clauses (i) and (ii) of this subparagraph. In addition, notwithstanding the provisions of this section regarding reimbursements of parties pursuant to section 22a-449f, the responsible party shall bear all costs of the release that are less than ten thousand dollars and all persons shall bear all costs of the release that are more than one million dollars, except that for any such release which was reported to the department prior to December 31, 1987, and for which more than five hundred thousand dollars has been expended by the responsible party to remediate such release prior to June 19, 1991, the responsible party for the release shall bear all costs of such release which are less than ten thousand dollars or more than five million dollars, provided the portion of any reimbursement or payment in excess of three million dollars may, at the discretion of the commissioner, be made in annual payments for up to a five-year period.

(b) (1) If an initial application or request for payment or reimbursement is received by the board ~~commissioner~~ before July 1, 2005, no supplemental application or request for payment or reimbursement shall be submitted to the board ~~commissioner~~ on or after October 1, 2009, regarding costs, expenses or other obligations paid or incurred in response to the release or suspected release noted in any such initial application or request for payment or reimbursement. The provisions of this subdivision shall apply regardless of whether the cost, expense or other obligation was paid or incurred before October 1, 2009, and no reimbursement or payment from the account shall be ordered by the board or made by the commissioner regarding any such supplemental application or

request for payment or reimbursement received by the board on or after the October 1, 2009, deadline established in this subdivision.

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

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

(4) The provisions of this subsection shall not apply to annual groundwater remedial actions, including the preparation of a groundwater remedial action progress report, performed pursuant to subdivision (6) of section 22a-449p. Notwithstanding the provisions of this subsection, the board ~~commissioner~~ may continue to receive applications or requests for payment or reimbursement and provided all other requirements have been met, may order payment or reimbursement from the account for such activities.

(c) (1) Any person who has insurance, or a contract or other agreement to provide payment or reimbursement for any costs, expense or other obligation paid or incurred in response to a release or suspected release may submit an application or request seeking payment or reimbursement from the account to the board ~~commissioner~~, provided any such application or request for payment or reimbursement shall be subject to all applicable requirements, including, but not limited to, subdivision (7) of subsection (c) of section 22a-449f.

(2) Any person who at any time receives or expects to receive payment or reimbursement from any source other than the program for any cost, expense, obligation, damage or injury for which such person has received or has applied for payment or reimbursement from the program, shall notify the board ~~commissioner~~, in writing, of such supplemental or expected payment and shall, not more than thirty days after receiving such supplemental payment, repay the program all such amounts received from any other source.

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

Sec. 4. Section 22a-449d of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is established an Underground Storage Tank Petroleum Clean-Up Review Board. Upon application for reimbursement or payment pursuant to section 22a-449f, the board ~~the Commissioner of Energy and Environmental Protection~~ shall determine, based on the provisions of sections 22a-449a to 22a-449i, inclusive, sections 12 and 13 of this act and all regulations adopted pursuant to said sections 22a-449a to 22a-449i, inclusive, whether or not to order payment or reimbursement from the program. The board ~~commissioner~~ shall have the authority to order payment within available resources to registered contractors pursuant to section 22a-449l, or to owners pursuant to section 22a-449n, for reasonable costs associated with the remediation of a residential underground heating oil storage tank system based on the guidelines established pursuant to subsection (c) of this section; hold hearings, administer oaths, subpoena witnesses and documents through its chairperson ~~designee~~ when authorized by the board ~~commissioner~~; designate an agent to perform such duties of the board ~~commissioner~~ as it ~~he or she~~ deems necessary except the duty to render a final decision to order reimbursement or payment from the account; and provide by

notice, printed on any form, that any false statement made thereof or pursuant thereto is punishable pursuant to section 53a-157b.

(b) The board shall consist of the Commissioners of Energy and Environmental Protection and Revenue Services, the Secretary of the Office of Policy and Management and the State Fire Marshal, or their designees; one member representing the Connecticut Petroleum Council, appointed by the speaker of the House of Representatives; one member representing the Service Station Dealers Association, appointed by the majority leader of the Senate; one member of the public, appointed by the majority leader of the House of Representatives; one member representing the Independent Connecticut Petroleum Association, appointed by the president pro tempore of the Senate; one member representing the Gasoline and Automotive Service Dealers of America, Inc., appointed by the minority leader of the House of Representatives; one member representing a municipality with a population greater than one hundred thousand, appointed by the Governor; one member representing a municipality with a population of less than one hundred thousand, appointed by the minority leader of the Senate; one member representing a small manufacturing company which employs fewer than seventy-five persons, appointed by the speaker of the House of Representatives; one member experienced in the delivery, installation, and removal of residential underground petroleum storage tanks and remediation of contamination from such tanks, appointed by the president pro tempore of the Senate; and one member who is an environmental professional licensed under section 22a-133v and is experienced in investigating and remediating contamination attributable to underground petroleum storage tanks, appointed by the Governor. The board shall annually elect one of its members to serve as chairperson.

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

[(d)] (c) To the extent that funds are available, the board ~~commissioner~~ may order payment to registered contractors for reimbursement of eligible costs for services associated with the remediation of a residential underground heating oil storage

tank system prior to July 1, 2001, to owners of such systems for payment for eligible costs incurred after July 1, 2001. No such payment shall be authorized unless the board ~~commissioner~~ deems the costs reasonable based on the guidelines established pursuant to subsection (c) of this section. Notwithstanding the provisions of this subsection, if the board ~~commissioner~~ determines that the owner may not receive reimbursement payment from the contractor, the board ~~commissioner~~ may, if reimbursement has not been sent to the contractor, directly reimburse the owner of such system for eligible costs incurred by the owner and paid to the registered contractor for services associated with a remediation of a system prior to July 1, 2001.

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

(a) The Commissioner of Energy and Environmental Protection, after consultation with the members of the board established by section 22a-449d, shall adopt regulations in accordance with the provisions of chapter 54 setting forth procedures for reimbursement and payment from the program established under section 22a-449c. Such regulations shall include such provisions as the commissioner deems necessary to carry out the purposes of sections 22a-449a to 22a-449h, inclusive, as amended by this act, and sections 12 and 13 of this act, including, but not limited to, provisions for (1) notification of eligible parties of the existence of the account; (2) records required for submission of claims and reimbursement and payment; (3) periodic and partial reimbursement and payment to enable responsible parties to meet interim costs, expenses and obligations; and (4) reimbursement and payment for costs, expenses and obligations incurred in connection with releases or suspected releases discovered before or after July 5, 1989, provided reimbursement and payment shall not be made for costs, expenses and obligations incurred by a responsible party on or before said date.

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

labor, equipment, materials, services or other costs, expenses or other obligations, shall not exceed the amount established in any such schedule and such schedule may serve as guidance with respect to any costs, expenses or other obligations paid or incurred before the adoption of such schedule.

(2) The commissioner shall adopt, revise or revoke the schedule in accordance with the provisions of this subsection. After consultation with the board, the commissioner shall publish notice of intent to adopt, revise or revoke the schedule, or any portion thereof, in a newspaper having substantial circulation in the affected area. There shall be a comment period of thirty days following publication of such notice during which interested persons may submit written comments to the commissioner. The commissioner shall publish notice of the adoption, revision or revocation of the schedule, or part thereof, in a newspaper having substantial circulation in the affected area. The commissioner shall, upon request, review the schedule and shall make any revisions the commissioner deems necessary to such schedule once every two years or may do so more frequently as the commissioner deems necessary. The commissioner, after consultation with the board, may revise or revoke the schedule, in whole or in part, using the procedures specified in this subsection. Any person may request that the commissioner adopt, revise or revoke the schedule in accordance with this subsection.

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

(d) An environmental professional, who has a currently valid and effective license issued pursuant to section 22a-133v, shall use a seal, as provided for in regulations adopted pursuant to section 22a-133v, to provide written approval required under sections 22a-449c, 22a-449f and 22a-449p, and any approval without a seal shall not constitute an approval of a licensed environmental professional. The regulations adopted pursuant to section 22a-133v regarding the use of a seal and the rules of professional conduct shall apply to the duties of a licensed environmental professional contained in sections 22a-449a to 22a-449i, inclusive, and 22a-449p.

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

(a) A responsible party may apply to the Underground Storage Tank Petroleum Clean-Up Review Board established under section 22a-449d, Commissioner of Energy and Environmental Protection for reimbursement for costs paid and

payment of costs incurred as a result of a release, or a suspected release, including costs of investigating and remediating a release, or a suspected release, incurred or paid by such party who is determined not to have been liable for any such release. If a person other than a responsible party, claims to have suffered bodily injury, property damage or damage to natural resources from a release, the person with such claim shall make reasonable attempts to provide written notice to the responsible party of such claim and if such person cannot provide such notice or if the responsible party does not apply to the board ~~commissioner~~ for payment of such claim not later than sixty days after receipt of such notice or such other time as may be agreed to by the parties, the person holding such claim may apply to the board ~~commissioner~~ for payment for such damage or bodily injury.

(b) (1) In addition to all other applicable requirements, a person seeking payment or reimbursement from the account shall demonstrate that when the total costs, expenses or other obligations in response to a release or suspected release (A) are two hundred fifty thousand dollars or less, all labor, equipment and materials provided after October 1, 2005, and all services and activities undertaken after October 1, 2005, are approved, in writing, either by the commissioner or by a licensed environmental professional with a currently valid and effective license issued pursuant to section 22a-133v; and (B) exceed two hundred fifty thousand dollars, all labor, equipment and materials provided after October 1, 2005, and all services and activities undertaken after October 1, 2005, are approved, in writing, by the commissioner, provided the commissioner may authorize, in writing, a licensed environmental professional with a currently valid and effective license issued pursuant to section 22a-133v to approve, in writing, such labor, equipment, materials, services and activities, in lieu of the commissioner. The provisions of this subsection shall apply to all costs, expenses or other obligations for which a person is seeking payment or reimbursement from the account and the board shall not order and the commissioner shall not order or make payment or reimbursement from the account for any cost, expense or other obligation, unless the person seeking such payment or reimbursement provides the written approval required by this subdivision. Any written approval provided by a licensed environmental professional pursuant to this subdivision shall be submitted with the application for payment or reimbursement. Any written approval provided by the commissioner pursuant to this subdivision shall not constitute an approval pursuant to any other provision of the general statutes or any regulation, and shall be presented to the board prior to the board making a decision regarding the application that such approval concerns.

(2) The fees charged by a licensed environmental professional regarding labor or services rendered in response to a release or suspected release may be included in any application or request for payment or reimbursement submitted to the

board ~~commissioner~~. The amount to be paid or reimbursed for such fees may also be established in the schedule adopted by the commissioner pursuant to subsection (b) of section 22a-449e.

(3) Providing it is true and accurate, a licensed environmental professional shall submit the following certification regarding any approval provided under subdivision (1) of this subsection and section 22a-449p: "I hereby agree that all of the labor, equipment, materials, services, and activities described in or covered by this certification were appropriate under the circumstances to abate an emergency or were performed as part of a plan specifically designed to ensure that the release or suspected release is or has been investigated in accordance with prevailing standards and guidelines and remediated consistent with and to achieve compliance with the remediation standards adopted under section 22a-133k of the general statutes."

(c) The board ~~commissioner~~ shall order reimbursement or payment for any cost paid or incurred, as the case may be, if, (1) such cost is or was incurred after July 5, 1989, (2) a responsible party was or would have been required to demonstrate financial responsibility under 40 CFR Part 280.90 et seq. as said regulation was published in the Federal Register of October 26, 1988, for the underground storage tank or underground storage tank system from which the release emanated, whether or not such party is required to comply with said requirements on the date any such cost is incurred, provided if the state is the responsible party, the board ~~commissioner~~ may order payment, within available resources, without regard to whether the state was or would have been required to demonstrate financial responsibility under said sections 40 CFR Part 280.90 et seq., (3) after the release, if any, the responsible party incurred a cost, expense or obligation for investigation, cleanup or for claims of a person other than a responsible party resulting from the release, provided any such claim shall be required to be finally adjudicated or settled with the prior written approval of the board ~~commissioner~~ before an application for reimbursement or payment is made, (4) the board ~~commissioner~~ determines that the cost, expense or other obligation is reasonable and that there are not grounds for recovery specified in subdivision (1) or (3) of subsection (g) of this section, (5) the responsible party notified the board ~~commissioner~~, as soon as practicable, of the release and of any other claim by a person other than a responsible party, resulting from the release, in accordance with the regulations adopted pursuant to section 22a-449e, (6) the responsible party, or, if a person other than a responsible party applies for payment or reimbursement from the account, then such person demonstrates the remediation, including any monitoring to determine the effectiveness of the remediation, for which payment or reimbursement is sought is not more stringent than that required by the remediation standards established pursuant to section 22a-133k, except to the extent the responsible party or such person

demonstrates that it has been directed otherwise, in writing, by the commissioner, (7) the responsible party, or, if a person other than a responsible party applies for payment or reimbursement, then such person demonstrates that it does not have insurance, or a contract or other agreement to provide payment or reimbursement for any cost, expense or other obligation incurred in response to a release or suspected release, or if there is any such insurance, contract or other agreement, that any insurance coverage has been denied or is insufficient to cover the costs, expenses or other obligations, paid or incurred or that any contract or other agreement is not able to or is insufficient to cover the costs, expenses or other obligations, paid or incurred, for which payment or reimbursement is sought, (8) the responsible party demonstrates and the board ~~commissioner~~ determines that one of the milestones noted in section 22a-449p has been completed, (9) the board ~~commissioner~~ determines what, if any, reductions to the amounts sought should be made based upon the compliance evaluations performed pursuant to subsection (d) of this section, and (10) at the time any application or request for payment or reimbursement, including any supplemental application or request, is submitted to the board ~~commissioner~~, (A) for applications filed with the Underground Storage Tank Petroleum Clean-up Review Board ~~commissioner~~ on or after October 1, 2007, there is no underground storage tank system subject to the financial responsibility demonstration required in subdivision (2) of this subsection dispensing petroleum on the property where the release or suspected release emanated or occurred, and if the application is submitted by the person who owns or operates or who owned or operated the underground storage tank system at the time of the release, such person demonstrates, in addition to all other applicable requirements, that lack of compliance with provisions of the general statutes and regulations governing underground storage tank systems was not a proximate cause of the release or suspected release and that there are not grounds for recovery specified in subdivision (2) of subsection (g) of this section, or (B) for applications filed with the Underground Storage Tank Petroleum Clean-Up Review Board ~~commissioner~~ prior to October 1, 2007, there is no underground storage tank system dispensing petroleum on the property where the release or suspected release emanated or occurred, and if the application is submitted by the person who owns or operates or who owned or operated the underground storage tank system at the time of the release, such person demonstrates, in addition to all other applicable requirements, that lack of compliance with provisions of the general statutes and regulations governing underground storage tank systems was not a proximate cause of the release or suspected release and that there are not grounds for recovery specified in subdivision (2) of subsection (g) of this section. and (11) (A) in the case of municipalities, innocent affected parties and small station applicants, the applicant has notified the commissioner of a release prior to September 30, 2013, and has submitted an application for payment or reimbursement pursuant to this section prior to September 30, 2014, (B) in the

~~case of mid-size station applicants, the applicant has notified the commissioner of a release prior to September 30, 2012, and has submitted an application for payment or reimbursement pursuant to this section prior to September 30, 2013, or (C) in the case of large station applicants, the applicant has submitted an application for payment or reimbursement pursuant to this section prior to September 30, 2012. If an applicant fails to meet the requirements set forth in subdivision (11) of this subsection, the commissioner shall notify such applicant in writing that no action can be taken pursuant to said subdivision.~~ Subdivision (10) of this subsection shall not apply to any application filed with the underground storage tank petroleum clean-up account concerning a release of an underground storage tank system that was reported to the Commissioner of Energy and Environmental Protection in September, 2003 where such system was owned or operated by a municipality or other political subdivision of the state at the time of the release and such system was removed on or before April 1, 2005. In acting on an application or a request for payment or reimbursement, the board ~~commissioner~~, using funds from the account, may contract with experts, including, but not limited to, attorneys and medical professionals, to better evaluate and defend against claims and negotiate claims by persons other than responsible parties. The costs of the board for experts shall not be charged to the amount allocated to the Department of Energy and Environmental Protection pursuant to section 22a-449c. If a person other than a responsible party applies to the board ~~commissioner~~ claiming to have suffered bodily injury, property damage or damage to natural resources, the board ~~commissioner~~ shall order reimbursement or payment if such person demonstrates that subdivisions (1), (2), (6) and (7) of this subsection are satisfied, the board ~~commissioner~~ determines that as a result of a release or suspected release such person has suffered bodily injury, property damage or damage to natural resources, that the costs, expenses or other obligations incurred are reasonable and the person submitting such claim demonstrates that it has attempted to or has provided written notice of its claim to the responsible party as required in subsection (a) of this section and that the responsible party has not applied to the board ~~commissioner~~ for payment or reimbursement of this claim. On or before June 30, 2005, if the board ~~commissioner~~ denied reimbursement or provided for only partial payment or reimbursement from the account regarding a release, pursuant to subdivision (4) of this subsection, such denial or partial payment or reimbursement shall remain in effect and shall apply to all subsequent applications or requests for payment or reimbursement regarding such release.

(d) (1) Except as provided in this subsection, if at the time any application or request for payment or reimbursement is submitted to the board ~~commissioner~~, including any supplemental application or request, there is an underground storage tank system dispensing petroleum on the property where the release or suspected release emanated or occurred, such application or request shall not be

deemed complete and shall not be acted upon by the board ~~commissioner~~ unless such application or request includes a summary of the compliance status of all the underground storage tank systems on the subject property. Any such summary shall include an evaluation of compliance with the design, construction, installation, notification, general operating, release detecting, system upgrading, abandonment and removal date requirements of the regulations adopted pursuant to sections 22a-449 and 22a-449o and shall be prepared by an independent consultant on a form prescribed by or acceptable to the commissioner. The summary shall be based on an evaluation of said underground storage tank systems performed not more than one hundred eighty days before the board ~~commissioner~~ receives an application or a request for reimbursement or payment, except that with respect to any provision of the subject regulations regarding record keeping, periodic monitoring or testing, the summary shall be based on an evaluation of a one-year period terminating within one hundred eighty days prior to the board's ~~commissioner's~~ receipt of an application or a request for payment or reimbursement. The summary shall also include a full description of all corrective measures that have been taken or that are being taken with regard to any noncompliance identified in the compliance evaluation performed pursuant to this subdivision.

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

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

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

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

(5) Except as provided for in this subdivision, if at the time any application or request for payment or reimbursement, including any supplemental application or request, is submitted, there is no underground storage tank system dispensing petroleum on the property where the release or suspected release emanated or occurred, any such application or request shall be subject to the provisions of subdivision (10) of subsection (c) of this section, even where a prior application or request was subject to the provisions of this subsection. The provisions of this subdivision shall not apply to an application or request for payment or reimbursement for annual groundwater remedial actions, including the preparation of a groundwater remedial action progress report, performed pursuant to subdivision (6) of section 22a-449p.

(e) (1) If the compliance evaluation summary performed pursuant to subsection (d) of this section indicates that any of the violations noted in this subdivision exist with respect to any underground storage tank or underground storage tank system on the property at which a release or suspected release occurred and any such violations have not been fully corrected by the time an application or request for reimbursement is submitted to the board ~~commissioner~~, the board ~~commissioner~~ shall reduce any payment or amount to be reimbursed as follows: (A) A one hundred per cent reduction of the payment or amount to be reimbursed for failure to meet the tank or piping construction requirements of section 22a-449o or the regulations adopted pursuant to section 22a-449 or for failure to report the release to the commissioner as required by this section, (B) a seventy-five per cent reduction of the payment or amount to be reimbursed for failure to have properly functioning cathodic protection, spill prevention, overfill prevention, or release detection as required by the regulations adopted pursuant to section 22a-449. Notwithstanding the provisions of this subsection, the board ~~commissioner~~ may reduce any amount to be paid or reimbursed based on any other violation of the provisions of the general statutes or regulations of Connecticut state agencies regarding ownership or operation of an underground storage tank system.

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

(f) (1) For all work or services performed or materials provided before October 1, 2004, the board ~~commissioner~~ shall not order payment or reimbursement for any cost paid or incurred, unless when seeking payment or reimbursement, the application or any submission regarding work, services or materials that have been pre-authorized by the board ~~commissioner~~ is received by the board ~~him or her~~ on or before April 1, 2005.

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

(3) After June 30, 2005, the board ~~commissioner~~ shall not order payment or reimbursement for any cost, expense or other obligation, paid or incurred, unless the application or request for payment or reimbursement is received by the board ~~commissioner~~ not later than one year after the completion of all or substantially all of the work or activities necessary to prepare the plan or report required by the milestones set forth in section 22a-449p.

(g) The Attorney General, upon the request of the board or the commissioner, may institute an action in the superior court for the judicial district of Hartford to recover the amounts specified in this section from any person who owns or operates an underground storage tank system at the time a release emanates or occurs from such system or any person who owns the real property on which a release emanates or occurs, provided such person owned the real property at or any time after the release emanates or occurs until the time that a final remediation action report is submitted by a licensed environmental professional or approved by the commissioner pursuant to subdivision (7) of section 22a-449p, if: (1) Prior to the occurrence of the release, the underground storage tank or underground storage tank system from which the release emanated was required by regulations adopted under section 22a-449 to be the subject of an Underground Storage Facility Notification Form, or EPHM-6 but the person who owns or operates or who owned or operated such tank or tank system knowingly and intentionally failed to submit such notification form to the commissioner; (2) the release results from a reckless, wilful, wanton or intentional act or omission of such person or a negligent act or omission of such person that constitutes noncompliance with the general statutes or regulations governing the installation, operation and maintenance of underground storage tanks; or (3) the

release occurs from an underground storage tank or system which is not in compliance with a final order issued by the commissioner pursuant to this chapter or a final judgment issued by a court concerning noncompliance with a requirement of this chapter; or (4) payment has been made, including payment to the commissioner pursuant to subsection (i) of this section, to a person other than a person against whom an action may be brought pursuant to this subsection. All costs to the state relating to actions to recover such payments, including, but not limited to, reasonable attorneys' fees, shall initially be paid within available resources. In any recovery [the board or] the commissioner is entitled to recover from such person (A) all payments made with respect to a release or suspected release, (B) all payments made by the commissioner pursuant to subsection (i) of this section with respect to a release or suspected release, (C) interest on such payments at a rate of ten per cent per year from the date such payments were made, and (D) all costs of the state relating to actions to recover such payments, including, but not limited to, reasonable attorneys' fees. All actions brought pursuant to this section shall have precedence in the order of trial, as provided in section 52-191. If the Attorney General has filed an action against a person seeking recovery of the amounts specified in this subsection or if the commissioner sends a person a demand letter regarding costs incurred by the state pursuant to section 22a-451, any such person against whom an action has been brought or who receives a demand letter shall not submit an application or request for payment or reimbursement to the board ~~commissioner~~ seeking payment or reimbursement of any such amount sought by the Attorney General or by the commissioner. If any such application or request for payment or reimbursement is submitted, the board ~~commissioner~~ shall not take any action regarding any such application or request.

(h) The board ~~commissioner~~ shall render its decision not more than ninety days after receipt of an application from a person, provided, in the case of a second or subsequent application, the board ~~commissioner~~ shall render its decision not more than forty-five days after receipt of such application. A copy of the decision shall be sent to the commissioner and the person seeking payment or reimbursement by certified mail, return receipt requested. The commissioner or any Any person aggrieved by the decision of the board ~~commissioner~~ may, within twenty days from the date of issuance of such decision, request a hearing before the board in accordance with the provisions of chapter 54. After such hearing, the board ~~commissioner~~ shall consider the information submitted to it and affirm or modify it's ~~the~~ decision on the application. A copy of the affirmed or modified decision shall be sent to all parties to the hearing by certified mail, return receipt requested. Once the board ~~commissioner~~ renders a decision regarding an application or request for payment or reimbursement and no hearing has been requested pursuant to this subsection regarding any such

decision, the costs, expenses or other obligations addressed by any such decision shall not be resubmitted in any other application or request.

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

(j) (1) If through an initial application or request for payment or reimbursement received by the board ~~commissioner~~ before June 1, 2005, the board ~~commissioner~~ has determined that a person has paid or incurred costs, expenses or other obligations that are eligible for payment or reimbursement, with respect to any supplemental application or request for payment or reimbursement the following shall apply. The commissioner may identify a category of activities, costs, expenses, or other obligations that are less than one hundred thousand dollars for which, in lieu of full payment, the board ~~commissioner~~ may approve a percentage of the costs, expenses or other obligations paid or incurred. In making any such recommendation to the board, the commissioner shall consider the amounts previously paid from the account and any other information the commissioner deems relevant. Any such percentage shall be not more than, but may be less than, ninety per cent of the average amount, as determined by the commissioner, previously paid from the account for any activity, cost, expense or obligation. The board shall approve or disapprove, but shall not modify, payment of the percentage recommended by the commissioner pursuant to this subdivision. ~~The commissioner may, using the procedures specified in this subdivision, recommend changes to modify any percentage previously approved [by the board] under this subdivision.~~

(2) If the board approves payment of the percentage recommended by the commissioner, a person with a supplemental application or request for payment or reimbursement may agree to accept the percentage payment approved by the board ~~commissioner~~. Any such acceptance shall be in writing, signed by the person seeking payment or reimbursement and shall acknowledge that the person is agreeing to accept less than the full amount sought by such person for the costs, expenses or other obligations covered by such acceptance. If the commissioner has prescribed forms, any such acceptance shall be made using the forms prescribed by the commissioner. Once a completed written acceptance is

received, the board ~~commissioner~~ shall, not later than ninety days after receiving such acceptance, determine whether to order payment or reimbursement from the account. Any such determination by the board ~~commissioner~~ shall be limited to whether the costs, expenses or other obligations are within those for which the board ~~commissioner~~ has approved payment pursuant to subdivision (1) of this subsection.

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

(k) Notification to the commissioner pursuant to regulations adopted pursuant to section 22a-449 shall constitute compliance with any regulation adopted pursuant to section 22a-449e regarding notification to the board ~~commissioner~~ of a release.

Sec. 7. Section 22a-449g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Commissioner of Energy and Environmental Protection or any person aggrieved by a decision of the review board established under ~~Commissioner of Energy and Environmental Protection pursuant to~~ section 22a-449d may appeal from such decision to the superior court for the judicial district of New Britain within twenty days after the issuance of such decision. Such appeal shall be in accordance with chapter 54. All such appeals shall be heard by the court without a jury, and shall have precedence in the order of trial as provided in section 52-192. If the review board ~~commissioner~~ orders reimbursement or payment from the account, and a party to the appeal contests any portion of the ordered reimbursement or payment, the uncontested portion of the ordered reimbursement or payment shall be made, notwithstanding the pendency of the appeal.

Sec. 8. Section 22a-449l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section, "registered contractor" means a person registered with the Commissioner of Energy and Environmental Protection pursuant to section 22a-449k.

(b) Prior to July 1, 2001, if, in the course of removing or replacing a residential underground heating oil storage tank system, a registered contractor finds that there has been a spill, as defined in section 22a-452c, attributable to such system and such contractor estimates that the remediation of such spill is likely to cost more than five thousand dollars, such contractor shall immediately notify the Department of Energy and Environmental Protection regarding such spill. If, after the contractor's initial estimate, the contractor subsequently determines that such cost will exceed five thousand dollars, the contractor shall upon that determination notify the Department of Energy and Environmental Protection. The department may assess the spill and confirm that the remediation proposed by the contractor is appropriate and necessary, or may authorize an environmental professional licensed under section 22a-133v to assess the spill and make such confirmation. Any such remediation shall be subject to approval by the department, except that the department may authorize an environmental professional licensed under section 22a-133v to make a recommendation regarding such approval. If a registered contractor estimates that the remediation of such spill is likely to cost more than ten thousand dollars, the commissioner or any agent of the commissioner or an environmental professional licensed under said section 22a-133v contracted by the department shall inspect the site and confirm that such remediation is reasonable. The costs of such an inspection shall be eligible for payment within available resources.

(c) (1) In order to receive reimbursement of eligible costs for services commenced after July 1, 1999, and prior to July 1, 2001, a registered contractor shall on or before December 1, 2001, submit to the Underground Storage Tank Petroleum Clean-Up Review Board established under section 22a-449d commissioner for a disbursement from available resources, all reasonable costs for work commenced prior to July 1, 2001, pursuant to a contract with the owner or the state for the remediation of a residential underground heating oil storage tank system for the purpose of providing payment for the costs of such remediation. An owner of a residential underground heating oil storage tank system shall not be responsible to the registered contractor or any subcontractor of the registered contractor for any costs that are eligible for payment from the residential underground heating oil storage tank system clean-up program over five hundred dollars. The registered contractor or any subcontractor shall not bill the owner for any costs eligible for payment from said program over five hundred dollars unless the contractor or subcontractor enters into a separate written contract with the owner, on a form prescribed by the commissioner, authorizing the contractor or subcontractor to bill the owner more than five hundred dollars and such separate contract gives the owner the right to cancel such contract up to three days after entering into it. Such owner shall provide to the review board commissioner a statement confirming the registered contractor has been engaged by such owner to remove or to replace such residential underground heating oil storage tank

system and perform the remediation and shall execute an instrument which provides for payment to said account of any amounts realized by the owner, after any costs of litigation or attorney's fees have been paid, from a judgment or settlement regarding any claim for the costs of such remediation made against an insurance policy or any party. In any service contract entered into between a registered contractor and an owner for the remediation of a residential underground heating oil storage tank system, the registered contractor shall clearly identify all costs, including markup costs, that are not or may not be eligible for payment under said program.

(2) The registered contractor shall submit documentation, satisfactory to the review board ~~commissioner~~, of any costs associated with such remediation. The review board ~~commissioner~~ may deny remediation costs of the registered contractor that the review board ~~commissioner~~ determines are unreasonable based on the guidelines established pursuant to subsection (c) of section 22a-449d on and after the date the review board ~~commissioner~~ establishes such guidelines, and may deny remediation costs (A) in excess of five thousand dollars if the Department of Energy and Environmental Protection was not notified in accordance with the provisions of subsection (b) of this section, and (B) in excess of ten thousand dollars if the site was not inspected in accordance with the provisions of subsection (b) of this section. The review board ~~commissioner~~ shall deny any such costs in excess of fifty thousand dollars unless the commissioner determines such additional costs are warranted to protect public health and the environment. If a registered contractor fails to submit to the review board ~~commissioner~~ documentation of costs associated with such remediation that may be eligible for payment from the residential underground heating oil storage tank system clean-up program or if the registered contractor submits documentation of such costs but the board ~~commissioner~~ denies payment of such costs, the registered contractor shall be liable for such costs and shall have no cause of action against the owner of the underground petroleum storage tank.

(3) A copy of the review board's decision shall be sent to the Commissioner of Energy and Environmental Protection and to the registered contractor by certified mail, return receipt requested. ~~The commissioner or any~~ Any contractor aggrieved by a decision of the review board ~~commissioner~~ may, not more than twenty days after the date the decision was issued, request a hearing before the review board in accordance with chapter 54. After such hearing, the board ~~commissioner~~ shall consider the information submitted to it and affirm or modify its ~~the~~ decision on the reimbursement. A copy of the affirmed or modified decision shall be sent to the commissioner and any contractor by certified mail, return receipt requested.

(d) Neither the Underground Storage Tank Petroleum Clean-Up Review Board nor the ~~The~~ Commissioner of Energy and Environmental Protection shall not accept applications pursuant to this section on or after December 1, 2001, for the reimbursement of eligible costs for services completed prior to July 1, 2001, except that, notwithstanding subsection (c) of this section, prior to July 1, 2004, the board ~~commissioner~~ may accept applications for reimbursement from and make payments to any owner who demonstrates that the owner paid for eligible costs for services provided to the owner prior to July 1, 2001, and either (1) the registered contractor filed an application for reimbursement between December 1, 2001, and January 1, 2003, or (2) the owner, prior to May 1, 2003, filed a complaint with the board or the commissioner regarding the failure of the registered contractor to file a timely application.

Sec. 9. Section 22a-449n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section, "registered contractor" means a person registered with the Commissioner of Energy and Environmental Protection pursuant to section 22a-449k, "qualifying income" means the owner's adjusted gross income, as defined in section 12-701, for the calendar year immediately preceding the year in which costs eligible for payment were incurred under this section and "costs eligible for payment" means costs that are reasonable for payment, as determined by the guidelines established pursuant to section 22a-449d.

(b) If, in the course of removing or replacing a residential underground heating oil storage tank system, a registered contractor finds that there has been a spill, as defined in section 22a-452c, attributable to such a system, or if such contractor estimates that the remediation of such spill is likely to cost more than ten thousand dollars then such contractor shall immediately notify the Department of Energy and Environmental Protection. The commissioner may assess the spill and confirm that the remediation proposed by the contractor is appropriate and necessary, or may authorize an environmental professional licensed under section 22a-133v to assess the spill and make such confirmation. Any such remediation shall be subject to approval by the commissioner. The commissioner may authorize an environmental professional licensed under section 22a-133v to make a recommendation regarding such approval. The costs of an inspection pursuant to this section shall be eligible for payment under the residential underground heating oil storage tank system clean-up program established under subsection (a) of section 22a-449c. The commissioner may revoke a registration pursuant to section 22a-449k for failure of a contractor to notify the department as required by this section.

(c) On or after July 1, 2001, to be eligible for payment pursuant to this section, an owner shall submit the following information to the Commissioner of Energy and Environmental Protection, in such form as the commissioner may require, prior to entering into a contract with a registered contractor for remediation of a spill attributable to a residential underground heating oil storage tank system: (1) The name and Social Security number of the property owner; (2) a verification that such tank serves the owner's primary residence; (3) a verification of the owner's qualifying income; and (4) the name of the registered contractor who will perform the remediation. The commissioner shall, not later than thirty days following receipt of such information, send a written notice to the owner that specifies whether the owner is eligible for payment under this section, whether funds are available for the owner under this section and the amount of remediation costs for which the owner is responsible prior to receiving payment under this section.

(d) Subject to the provisions of subsection (e) of this section, an owner may be reimbursed for all reasonable costs for work commenced on or after July 1, 2001, in accordance with the following: (1) If an owner's qualifying income is less than or equal to fifty thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of five hundred dollars; (2) if an owner's qualifying income is greater than fifty thousand dollars and less than or equal to one hundred thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of two thousand dollars; (3) if an owner's qualifying income is greater than one hundred thousand dollars and less than or equal to one hundred fifty thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of four thousand dollars; (4) if an owner's qualifying income is greater than one hundred fifty thousand dollars and less than or equal to two hundred thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of five thousand dollars; (5) if an owner's qualifying income is greater than two hundred thousand dollars and less than or equal to two hundred fifty thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of seven thousand five hundred dollars; (6) if an owner's qualifying income is greater than two hundred fifty thousand dollars and less than or equal to five hundred thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of ten thousand dollars; (7) if an owner's qualifying income is greater than five hundred thousand dollars, the owner is not eligible for payment of costs. No registered contractor or any subcontractor of a registered contractor shall accept payment for any costs eligible for payment from said program until it has provided the owner with the information necessary to apply for a disbursement pursuant to subsection (e) of this section.

(e) (1) On or after July 1, 2001, an owner shall submit to the Underground Storage Tank Petroleum Clean-Up Review Board established under section 22a-449d

~~commissioner~~ an application that is postmarked no later than December 31, 2001, for a disbursement from the residential underground heating oil storage tank system clean-up program, within available resources, documentation of all costs eligible for payment for work performed pursuant to a contract with the owner for the remediation of a residential underground heating oil storage tank system for the purpose of providing payment for the costs of such remediation, provided such owner has complied with the provisions of subdivisions (1) and (2) of subsection (a) of section 22a-449j and provided such remediation was completed on or before December 1, 2001. Such payments shall be made in accordance with subsection (d) of this section. Such owner shall provide to the review board ~~commissioner~~ a statement confirming that the registered contractor has been engaged by such owner to remove or to replace such residential underground heating oil storage tank system, except that a storage tank system and any associated ancillary equipment shall not be subject to such requirement and perform the remediation and shall execute an instrument which provides for payment to said account of any amounts realized by the owner, after any costs of litigation or attorney's fees have been paid, from a judgment or settlement regarding any claim for the costs of such remediation made against an insurance policy or any person.

(2) In any service contract entered into between a registered contractor and an owner for the remediation of a residential underground heating oil storage tank system, the registered contractor shall clearly identify all costs, including markup costs, that are not or may not be eligible for payment from said program.

(3) The owner shall submit documentation, satisfactory to the review board ~~commissioner~~, of any costs associated with such remediation. The review board ~~commissioner~~ may deny payment of remediation costs that the review board ~~commissioner~~ determines are unreasonable based on the guidelines established pursuant to subsection (c) of section 22a-449d on and after the date the review board establishes such guidelines. The review board ~~commissioner~~ shall deny any such costs if the owner fails to comply with subsection (c) of this section and any such costs in excess of fifty thousand dollars unless the commissioner determines such additional costs are warranted to protect public health and the environment.

(4) A copy of the review board's decision shall be sent to the Commissioner of Energy and Environmental Protection and to the owner by certified mail, return receipt requested. The commissioner or any owner aggrieved by a decision of the review board ~~commissioner~~ may, not more than twenty days after the date the decision was issued, request a hearing before the review board in accordance with chapter 54. After such hearing, the board ~~commissioner~~ shall consider the information submitted to it and affirm or modify its the decision. A copy of the

affirmed or modified decision shall be sent to the commissioner and owner by certified mail, return receipt requested.

(5) No owner shall be entitled to reimbursement both under this section and section 22a-449l.

Sec. 10. Section 22a-449p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Notwithstanding any provision of sections 22a-449a to 22a-449i, inclusive, or any regulation adopted pursuant to said sections, except as provided for in subdivision (6) of this section, with respect to the investigation and remediation of a release, the underground storage tank petroleum clean-up program established pursuant to section 22a-449c shall be used to provide payment or reimbursement only when any of the following milestones are completed:

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

(2) An interim remedial action report approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Energy and Environmental Protection or an interim remedial action report has been approved, in writing, by the commissioner. Such interim remedial action report shall describe in detail all interim remedial action taken to: (A) Remove free product to the maximum extent technically practicable; (B) ensure that all persons whose drinking water was polluted by the release have been provided

potable water; and (C) ensure that soil vapors which pose a risk to public health are prevented from migrating into any overlying buildings.

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

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

(5) A groundwater remedial action progress report approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Energy and Environmental Protection or a groundwater remedial action progress report has been approved, in writing, by the commissioner. Such report may only be submitted after all construction necessary to implement the approved groundwater remedial actions has been completed and the groundwater remedial actions have been operated and monitored for one year. Such report shall include a detailed description of the remedial actions, the results of groundwater or any other monitoring conducted, an analysis of whether the remedial actions are effective, and a proposal for any changes in the groundwater remedial actions and monitoring that may be necessary to achieve compliance with the regulations adopted pursuant to section 22a-133k.

(6) An annual groundwater remedial action progress report approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Energy and Environmental Protection or approved, in writing, by the commissioner. Such report shall include a detailed description of the remedial actions, the results of groundwater or any other monitoring conducted for the year covered by the report, an analysis of whether the remedial actions are effective, and a proposal for any changes in the groundwater remedial

actions and monitoring that may be necessary to achieve compliance with the regulations adopted pursuant to section 22a-133k. A responsible party pursuant to section 22a-449f may submit to the board ~~commissioner~~ up to, but not more than, four separate applications or requests for payment or reimbursement in a calendar year regarding costs, expenses or obligations paid or incurred concerning annual groundwater monitoring or compliance with this subdivision.

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

(8) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, establishing milestones for investigation and remediation of releases or suspected releases from underground storage tank systems, including milestones that differ from those set forth in this section. Upon the adoption of such regulations, the milestones for investigation and remediation for which payment or reimbursement is available from the program shall be those set forth in the regulations.

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

Sec. 11. (NEW) (*Effective from passage*) (a) ~~(1) At the start of each fiscal year, the Commissioner of Energy and Environmental Protection shall distribute the amount allocated by the State Bond Commission or appropriated by the state to the Underground Storage Tank Petroleum Clean Up program as follows: (A) One quarter for payment or reimbursement to municipalities and innocent affected parties; (B) one quarter for payment or reimbursement to small station applicants; (C) one quarter for payment or reimbursement to mid-size station applicants; and (D) one quarter for payment or reimbursement to large station applicants.~~

(2) The commissioner shall determine whether an applicant is a municipality, innocent affected party, or a small, mid-size or large station applicant. Such determination shall be based on the applicant's status at the time its initial application for payment or reimbursement is filed with the department pursuant to section 22a-449f of the general statutes, as amended by this act. In the case of assignees under subdivision (2) of subsection (c) of section 22a-449e of the general statutes, the assignee shall assume the status of the assignor. Each applicant shall submit information regarding underground storage tank ownership to the Department of Energy and Environmental Protection and any additional information the commissioner deems necessary to make such determination on a form prescribed by the commissioner. Such determination shall be final and shall apply to all applications filed before or after the effective date of this section by such applicant pursuant to section 22a-449f of the general statutes, as amended by this act. Unless payment or reimbursement has been issued to an applicant pursuant to section 22a-449f of the general statutes, as amended by this act, no such application shall be deemed complete and no payment or reimbursement shall be ordered or issued by the commissioner until the commissioner makes such determination.

(b) (1) Payment or reimbursement to municipalities and innocent affected parties and small station applicants, as ordered by the Commissioner of Energy and Environmental Protection pursuant to sections 22a-449d to 22a-449e, inclusive, of the general statutes, as amended by this act, and sections 12 and 13 of this act, shall follow the order of priority set forth in this subsection. This order of priority applies to applications received before or after the effective date of this section. Priority shall be given to those applications approved by the commissioner for payment or reimbursement beginning from the earliest date of such approval. If there are insufficient funds to satisfy payment and reimbursement of such applications, the prioritization established pursuant to this subsection for payment and reimbursement shall carry over to the subsequent fiscal quarter, and if necessary, from year to year.

(2) (A) If at anytime there is an amount remaining from the funding allocated for payment or reimbursement of municipal or innocent affected parties and there are no pending municipal or innocent affected party applications, such amount shall be used for payment or reimbursement to small station applicants in accordance with the priority set forth in subdivision (1) of this subsection. If there are no pending or unpaid small station applications, the amount remaining from the funding allocated for payment or reimbursement of municipal or innocent affected parties shall be used for payment or reimbursement to mid-size station applicants, in accordance with the priority set forth in subsection (c) of this section. If there are no pending or unpaid mid-size station applications, the amount remaining from the funding allocated for payment or reimbursement of

municipal or innocent affected parties shall be used for payment or reimbursement to large station applicants, in accordance with the priority set forth in subsection (c) of this section.

(B) If at any time there is an amount remaining from the funding allocated for payment or reimbursement of small station applicants and there are no pending small station applications, such amount shall be used for payment or reimbursement to municipal and innocent affected party applicants, in accordance with the priority set forth in subdivision (1) of this subsection. If there are no pending or unpaid municipal or innocent affected party applications, the amount remaining from the funding allocated for payment or reimbursement of small station applicants shall be used for payment or reimbursement to mid size applicants in accordance with the priority set forth in subsection (c) of this section. If there are no pending or unpaid mid size station applications, the amount remaining from the funding allocated for payment or reimbursement of small station applicants shall be used for payment or reimbursement to large station applicants, in accordance with the priority set forth in subsection (c) of this section.

(c) (1) Payment or reimbursement to mid size station applicants and large station applicants, as ordered by the Commissioner of Energy and Environmental Protection pursuant to sections 22a-449d to 22a-449e, inclusive, of the general statutes, as amended by this act, and sections 12 and 13 of this act, shall follow the order of priority set forth in this subsection. This order of priority applies to applications received before or after the effective date of this section. For applications submitted by mid size or large station applicants before or after the effective date of this section, such applicants may elect to accept a lower payment or reimbursement than that ordered by the commissioner pursuant to section 22a-449d of the general statutes, as amended by this act, which shall be called a "reduced payment election" for the purposes of this section. As amongst mid size station applicants and large station applicants, applicants who make a reduced payment election of twenty cents on each dollar of the payment or reimbursement ordered by the commissioner, or less, shall be given priority over mid size station applicants and large station applicants who do not make a reduced payment election, regardless of the date on which the commissioner ordered payment or reimbursement pursuant to section 22a-449d of the general statutes, as amended by this act. As amongst applicants who make a reduced payment election, priority shall be given to those applicants who accept the greatest reduction of payment or reimbursement. In the case where such reduced payment election is equal amongst applicants, priority shall be given to those applications approved by the commissioner at the earliest date for payment or reimbursement. In each succeeding fiscal year after the effective date of this section, the twenty cent minimum set forth in this subdivision shall increase by

five cents per year. After this amount reaches one dollar, it shall no longer increase. If there are insufficient funds to satisfy payment and reimbursement of such applications, the prioritization established pursuant to this subsection for payment or reimbursement shall carry over from year to year. Mid-size station applicants and large station applicants who do not make a reduced payment election, shall not be issued payment or reimbursement until July 1, 2028. As amongst mid-size applicants and large size applicants who do not elect to accept a lower payment or reimbursement than that offered by the commissioner pursuant to section 22a-449d of the general statutes, as amended by this act, priority with respect to the issuance of payment or reimbursement shall be given to those applications first approved by the commissioner for payment or reimbursement.

(2) Not later than August first, annually, the following persons shall submit a reduced payment election to the commissioner:

(A) Mid-size station applicants and large station applicants seeking a reduced payment election for such fiscal year who will likely submit an application within such fiscal year to the commissioner pursuant to section 22a-449f of the general statutes, as amended by this act;

(B) Mid-size station applicants and large station applicants seeking a reduced payment election for such fiscal year who have submitted an application to the commissioner pursuant to section 22a-449f of the general statutes, as amended by this act, but have not previously submitted a reduced payment election; and

(C) Mid-size station applicants and large station applicants seeking a reduced payment election for such fiscal year who have submitted a payment election in a prior fiscal year for an application that has not been approved by the commissioner pursuant to section 22a-449d, of the general statutes, as amended by this act.

(3) Such payment election shall be submitted, in writing, on a form prescribed by the commissioner. In the case of applicants with more than one application before the commissioner, such payment election shall apply to each application already submitted to the commissioner. An applicant's payment election shall be considered final unless the applicant subsequently elects to accept a lower payment or reimbursement. Following receipt of such payment election by the commissioner, the applicant may not seek additional reimbursement for any cost, expense or other obligation associated with such applications.

(4) Mid-size and large station applicants submitting an application, other than a supplemental application, for the first time shall submit a reduced payment

election, in writing, on a form prescribed by the commissioner, with such application.

~~(5) (A) If at any time there is an amount remaining from the funding allocated for payment or reimbursement of mid-size station applicants and there are no pending mid-size station applications, such amount shall be used for payment or reimbursement to municipal and innocent affected party applicants, in accordance with the priority set forth in subdivision (1) of subsection (b) of this section. If there are no pending or unpaid municipal or affected party applications, the amount remaining from the funding allocated for payment or reimbursement of mid-size station applicants shall be used for payment or reimbursement to small station applicants, in accordance with the priority set forth in subdivision (1) of subsection (b) of this section. If there are no pending or unpaid small station applications, the amount remaining from the funding allocated for payment or reimbursement of mid-size stations shall be used for payment or reimbursement to large station applicants, in accordance with the priority set forth in subsection (c) of this section.~~

~~(B) If at any time there is an amount remaining from the funding allocated for payment or reimbursement of large station applicants, and there are no pending large station applications, such amount shall be used to pay municipal and innocent affected party applications, in accordance with the priority set forth in subdivision (1) of subsection (b) of this section. If there are no pending or unpaid municipal and innocent affected party applications, the amount remaining from the funding allocated for payment or reimbursement of large station applicants shall be used to pay small station applicants, in accordance with the priority set forth in subdivision (1) of subsection (b) of this section. If there are no pending or unpaid small station applications, the amount remaining from the funding allocated for payment or reimbursement of large station applicants shall be used to pay mid-size station applicants, in accordance with the priority set forth in subsection (c) of this section.~~

~~Sec. 12. (NEW) (Effective from passage) (a) Mid-size station applicants and large station applicants may not satisfy the financial responsibility requirements of section 22a-449(d)-109(d)(1) of the regulations of Connecticut state agencies, as amended from time to time, with a state fund or state assurance program. Such applicants shall take action on or before July 30, 2012, to ensure that each such applicant is in compliance with the financial responsibility requirements by October 1, 2012.~~

~~(b) Municipalities and third parties and small station applicants may not satisfy the financial responsibility requirements of section 22a-449(d)-109(d)(1) of the regulations of Connecticut state agencies, as amended from time to time, with a~~

~~state fund or state assurance program on and after October 1, 2013. Such applicants shall take action on or before July 30, 2013, to ensure that each such applicant is in compliance with the financial responsibility requirements by October 1, 2013.~~