

2562 Sec. 89. Section 22a-449 of the general statutes is repealed and the
2563 following is substituted in lieu thereof (*Effective from passage*):

2564 (a) The Commissioner of Environmental Protection shall, to the
2565 extent possible, immediately, whenever there is discharge, spillage,
2566 uncontrolled loss, seepage or filtration of oil or petroleum or chemical
2567 liquids or solid, liquid or gaseous products or hazardous wastes upon
2568 any land or into any of the waters of the state or into any offshore or
2569 coastal waters, which may result in pollution of the waters of the state,
2570 damage to beaches, wetlands, stream banks or coastal areas, or
2571 damage to sewers or utility conduits or other public or private
2572 property or which may create an emergency, cause such discharge,
2573 spillage, uncontrolled loss, seepage or filtration to be contained and
2574 removed or otherwise mitigated by whatever method said
2575 commissioner considers best and most expedient under the
2576 circumstances. The commissioner shall also (1) determine the person,
2577 firm or corporation responsible for causing such discharge, spillage,
2578 uncontrolled loss, seepage or filtration, and (2) send notice, in writing,
2579 to the chief executive officer and the local director of health of the
2580 municipality in which such discharge, spillage, uncontrolled loss,
2581 seepage or filtration occurs of such occurrence. Such notification shall
2582 be sent not later than twenty-four hours after the commissioner
2583 becomes aware of the contamination.

2584 (b) The commissioner may: (1) License terminals in the state for the
2585 loading or unloading of oil or petroleum or chemical liquids or solid,
2586 liquid or gaseous products or hazardous wastes and shall adopt, in
2587 accordance with chapter 54, reasonable regulations in connection
2588 therewith for the purposes of identifying terminals subject to licensure

2589 and protecting the public health and safety and for preventing the
2590 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
2591 petroleum or chemical liquids or solid, liquid or gaseous products or
2592 hazardous wastes. Each license issued under this section shall be valid
2593 for a period of not more than three years commencing July first, unless
2594 sooner revoked by the commissioner, and there shall be charged for
2595 each such license or renewal thereof fees established by regulation
2596 sufficient to cover the reasonable cost to the state of inspecting and
2597 licensing such terminals; (2) provide by regulations for the
2598 establishment and maintenance in operating condition and position of
2599 suitable equipment to contain as far as possible the discharge, spillage,
2600 uncontrolled loss, seepage or filtration of any oil or petroleum or
2601 chemical liquids or solid, liquid or gaseous products or hazardous
2602 wastes; (3) inspect periodically all hoses, gaskets, tanks, pipelines and
2603 other equipment used in connection with the transfer, transportation
2604 or storage of oil or petroleum or chemical liquids or solid, liquid or
2605 gaseous products or hazardous wastes to make certain that they are in
2606 good operating condition, and order the renewal of any such
2607 equipment found unfit for further use. No person shall commence
2608 operation of any such terminal in this state on or after July 1, 1993,
2609 without a license issued by the commissioner. Any person who
2610 operates any such terminal without a license issued by the
2611 commissioner shall be fined not more than five thousand dollars per
2612 day during any period of unlicensed operation.

2613 (c) The commissioner may establish such programs and adopt, in
2614 accordance with chapter 54, and enforce such regulations as he deems
2615 necessary to carry out the intent of sections 22a-133a to 22a-133j,
2616 inclusive, sections 22a-448 to 22a-454, inclusive, and Subtitle C of the
2617 Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.),
2618 as amended from time to time, except that actions pursuant to the
2619 state's hazardous waste program shall be brought under the provisions
2620 of sections 22a-131 and 22a-131a.

2621 (d) The Commissioner of Environmental Protection in consultation

2622 with the Commissioner of Public Safety may establish by regulations
2623 adopted in accordance with the provisions of chapter 54 standards and
2624 criteria for the nonresidential underground storage of oil, petroleum
2625 and chemical liquids which may include but not be limited to
2626 standards and criteria for the design, installation, operation,
2627 maintenance and monitoring of facilities for the underground storage
2628 and handling of such liquids. [Each nonresidential underground
2629 storage facility which, pursuant to regulations adopted pursuant to
2630 this section, submits notification of installation to the commissioner
2631 after July 1, 1990, shall submit a notification fee of one hundred dollars
2632 per tank.] The Commissioner of Environmental Protection may
2633 establish such programs and adopt, in accordance with chapter 54, and
2634 enforce such regulations as he deems necessary to carry out the intent
2635 of Subtitle I of the Resource Conservation and Recovery Act of 1976 (42
2636 USC 6901, et seq.), as amended from time to time.

2637 (e) The fee for the inspection of each nonresidential underground
2638 storage facility which, pursuant to regulations adopted pursuant to
2639 this section, submits notification to the commissioner shall be one
2640 hundred dollars per tank, provided such fee may not be charged more
2641 than once every five years.

2642 (f) The Commissioner of Environmental Protection may adopt
2643 regulations, in accordance with the provisions of chapter 54, to
2644 establish (1) requirements for the inspection of nonresidential
2645 underground storage tank systems for compliance with the
2646 requirements of this chapter, including, but not limited to, the
2647 minimum frequency, method and content of inspections, and
2648 maintenance and disclosure of results, (2) a program to authorize
2649 persons to (A) perform inspections, including, but not limited to,
2650 education and training requirements for such persons, and whether or
2651 not such persons may be employed by the owner or operator of the
2652 subject nonresidential underground storage tank system, (B) determine
2653 whether the violations for which a nonresidential underground
2654 storage tank system has been taken out of service pursuant to

2655 subsection (g) of this section have been corrected, which regulations
2656 may include, but not be limited to, a prohibition for an owner or
2657 operator of any such system from placing such system back into
2658 service pursuant to subsection (g) of this section after the regulations
2659 take effect or additional requirements for an owner or operator of any
2660 such system, and (C) requirements, in addition to the requirements
2661 contained in subsection (g) of this section, relating to the prohibition of
2662 deliveries to and the use of nonresidential underground storage tank
2663 systems that are not in compliance with section 22a-449o or with the
2664 requirements of this section and any regulations adopted under this
2665 section.

2666 (g) (1) If the commissioner determines that there is a release from a
2667 nonresidential underground storage tank system or that such system
2668 (A) is not designed, constructed, installed and operated in accordance
2669 with section 22a-449o or regulations adopted pursuant to this section,
2670 (B) fails to have or operate proper release detection equipment in
2671 accordance with regulations adopted pursuant to this section, or (C)
2672 fails to have or operate proper overfill and spill protection measures or
2673 equipment in accordance with regulations adopted pursuant to this
2674 section, then the commissioner may require the owner or operator of
2675 the nonresidential underground storage tank system to pump out the
2676 contents of its system, and the commissioner may place a notice on a
2677 system that is plainly visible, indicating that the system is not in
2678 compliance with the requirements applicable to nonresidential
2679 underground storage tank systems and that such system cannot be
2680 used and deliveries to such system cannot be accepted, or the
2681 commissioner may disable the use of such system by placing a
2682 disabling device on the system that prohibits deliveries to such system.
2683 Any action pursuant to this subdivision shall not be based solely on
2684 requirements relating to reporting or recordkeeping. No person shall
2685 make deliveries to any nonresidential underground storage tank
2686 system bearing the notice described in this subdivision or on which the
2687 commissioner has placed a disabling device. The owner or operator of
2688 such system shall ensure that any such system is not used for

2689 dispensing a product or receiving deliveries while any notice or
2690 disabling device has been placed upon such system. Except as
2691 provided in subdivision (3) of this subsection, no person or
2692 municipality shall remove, alter, deface or tamper with any notice or
2693 disabling device placed by the commissioner pursuant to this
2694 subdivision.

2695 (2) Not later than two business days after placing a notice or
2696 disabling device on a nonresidential underground storage tank system
2697 pursuant to subdivision (1) of this subsection, the commissioner shall
2698 provide the owner or operator of the affected underground storage
2699 tank system with an opportunity for a hearing. Any such hearing shall
2700 be limited to whether the violation upon which the commissioner took
2701 action under subdivision (1) of this subsection occurred and whether
2702 such violation is continuing.

2703 (3) A nonresidential underground storage tank system upon which
2704 a notice or disabling device has been placed pursuant to subdivision
2705 (1) of this subsection shall not be put back into service and shall not be
2706 used for dispensing a product or receiving deliveries until the
2707 violations that caused the notice or disabling device to be placed have
2708 been corrected to the satisfaction of (A) the commissioner, or (B) a
2709 person who, pursuant to regulations adopted pursuant to subsection
2710 (f) of this section, has been authorized by the commissioner to
2711 determine whether such violations have been corrected. The
2712 commissioner shall determine whether any applicable violation has
2713 been corrected not later than twenty-four hours after being contacted
2714 by the owner or operator of the underground storage tank system that
2715 any such violation has been fully corrected. Notwithstanding the
2716 provisions of this subdivision, until the commissioner authorizes
2717 persons to determine whether violations have been corrected pursuant
2718 to regulations adopted pursuant to subsection (f) of this section, the
2719 owner or operator of an underground storage tank system upon which
2720 a notice or a disabling device has been placed by the commissioner
2721 may place such system back into service, where, not later than twenty-

2722 four hours after being contacted by the owner or operator, the
2723 commissioner has not determined whether any applicable violation
2724 has been corrected and on the day any such system is returned to
2725 service or the next business day in the event such day is a Saturday,
2726 Sunday or legal holiday, the owner or operator provides the
2727 commissioner with a written affidavit fully describing all actions taken
2728 to correct the violations that caused a notice or disabling device to be
2729 placed upon such system and certifying that all such violations were
2730 fully corrected before any such system was returned to service.

2731 (4) Nothing in this subsection shall affect the authority of the
2732 commissioner under any other statute or regulation.

2733 (h) The person submitting a notification of installation for a
2734 nonresidential underground storage tank or underground storage tank
2735 system pursuant to regulations adopted pursuant to this section shall
2736 submit with such notification a notification fee of one hundred dollars
2737 per tank.

2738 ~~[(f)]~~ (i) Any moneys collected for the issuance or renewal of a
2739 license, pursuant to subsection (b) of this section or regulations
2740 adopted pursuant to said subsection, shall be deposited in the General
2741 Fund.

2742 Sec. 90. Section 22a-449a of the general statutes is repealed and the
2743 following is substituted in lieu thereof (*Effective from passage*):

2744 As used in this section and sections 22a-449c to 22a-449m, inclusive,
2745 and section 95 of this act:

2746 (1) "Petroleum" means crude oil, crude oil fractions and refined
2747 petroleum fractions, including gasoline, kerosene, heating oils and
2748 diesel fuels;

2749 (2) "Release" means any spilling, leaking, pumping, pouring,
2750 emitting, emptying, discharging, injecting, escaping, leaching,
2751 dumping or disposing of petroleum from any underground storage

2752 tank or underground storage tank system;

2753 (3) "Responsible party" means (A) for an application or request for
2754 payment or reimbursement received by the board before July 1, 2005,
2755 or for a determination regarding a person's status as a responsible
2756 party or a third party with respect to a specific release or suspected
2757 release made by the board before July 1, 2005, any person [or entity,
2758 including the state and any political subdivision of the state, which]
2759 who owns or operates an underground storage tank or underground
2760 storage tank system from which a release or suspected release
2761 emanates, (B) for an application or request for payment or
2762 reimbursement received by the board on or after July 1, 2005, any
2763 person who (i) at any time owns, leases, uses or has an interest in the
2764 real property on which an underground storage tank system is or was
2765 located from which there is or has been a release or suspected release,
2766 regardless of when the release or suspected release occurred, or
2767 whether such person owned, leased, used or had an interest in the real
2768 property at the time the release or suspected release occurred, or
2769 whether such person owned, operated, leased or used the
2770 underground storage tank system from which the release or suspected
2771 release occurred, (ii) at any time owns, leases, operates, uses, or has an
2772 interest in an underground storage tank system from which there is or
2773 has been a release or suspected release, regardless of when the release
2774 or suspected release occurred or whether such person owned, leased,
2775 operated, used or had an interest in the underground storage tank
2776 system at the time the release or suspected release occurred, or (iii) is
2777 affiliated with a person described in subclause (i) or (ii) of this
2778 subparagraph through a direct or indirect familial relationship or any
2779 contractual, corporate or financial relationship;

2780 (4) "Underground storage tank" means a tank or combination of
2781 tanks, including underground pipes connected thereto, used to contain
2782 an accumulation of petroleum, whose volume is ten per cent or more
2783 beneath the surface of the ground, including the volume of
2784 underground pipes connected thereto;

2785 (5) "Underground storage tank system" means an underground
2786 storage tank and any associated ancillary equipment and containment
2787 system; [and]

2788 (6) "Residential underground heating oil storage tank system"
2789 means (A) an underground storage tank system used in connection
2790 with residential real property composed of four residential units or
2791 fewer, or (B) a storage tank system and any associated ancillary
2792 equipment used in connection with residential real property composed
2793 of four residential units or fewer; and

2794 (7) "Person" means any individual, firm, partnership, association,
2795 syndicate, company, trust, corporation, limited liability company,
2796 municipality, agency or political or administrative subdivision of the
2797 state, or other legal entity of any kind.

2798 Sec. 91. Section 22a-449c of the general statutes is repealed and the
2799 following is substituted in lieu thereof (*Effective from passage*):

2800 (a) (1) There is established an account to be known as the
2801 "underground storage tank petroleum clean-up account". The
2802 underground storage tank petroleum clean-up account shall be an
2803 account of the Environmental Quality Fund. Notwithstanding any
2804 provision of the general statutes to the contrary, any moneys collected
2805 shall be deposited in the Environmental Quality Fund and credited to
2806 the underground storage tank petroleum clean-up account. Any
2807 balance remaining in said account at the end of any fiscal year shall be
2808 carried forward in said account for the fiscal year next succeeding.

2809 (2) The account shall be used by the Commissioner of
2810 Environmental Protection to provide money for reimbursement or
2811 payment pursuant to section 22a-449f, as amended by this act, to
2812 responsible parties or parties supplying goods or services, [or both, to
2813 responsible parties] for costs, expenses and other obligations paid or
2814 incurred, as the case may be, as a result of releases, and suspected
2815 releases, costs of investigation and remediation of releases and

2816 suspected releases, and [third party] for claims by a person other than
2817 a responsible party for bodily injury, property damage and damage to
2818 natural resources that have been finally adjudicated or settled with the
2819 prior written consent of the board. The commissioner may also make
2820 payment from the account to an assignee who is in the business of
2821 receiving assignments of amounts approved by the board, but not yet
2822 paid from the account, provided the party making any such
2823 assignment, using a form approved by the commissioner, directs the
2824 commissioner to pay such assignee, that no cost of any assignment
2825 shall be borne by the account and that the state and its agencies shall
2826 not bear any liability with respect to any such assignment.

2827 (3) Notwithstanding the provisions of this section regarding
2828 reimbursements of parties pursuant to section 22a-449f, as amended by
2829 this act, regulations promulgated pursuant to section 22a-449e, as
2830 amended by this act, and regardless of when an application for
2831 payment or reimbursement from the account may have been
2832 submitted to the board, [after] payment or reimbursement shall be
2833 made in accordance with the following: (A) After June 1, 2004, no
2834 payment or reimbursement shall be made for any costs, expenses and
2835 other obligations paid or incurred for remediation, including any
2836 monitoring to determine the effectiveness of the remediation, of a
2837 release to levels more stringent than or beyond those specified in the
2838 remediation standards established pursuant to section 22a-133k, except
2839 to the extent the applicant demonstrates that it has been directed
2840 otherwise, in writing, by the [Department of Environmental
2841 Protection] commissioner; (B) after June 1, 2005, no payment or
2842 reimbursement from the account shall be made to any person for
2843 diminution in property value or interest; and (C) after June 1, 2005, no
2844 payment or reimbursement from the account shall be made for
2845 attorneys' fees or other costs of legal representation paid or incurred as
2846 a result of a release or suspected release (i) in excess of five thousand
2847 dollars to any responsible party, (ii) in excess of ten thousand dollars
2848 to any person other than a responsible party, and (iii) by a responsible
2849 party regarding the defense of claims brought by another person. In

2850 addition, notwithstanding the provisions of this section regarding
2851 reimbursements of parties pursuant to section 22a-449f, as amended by
2852 this act, the responsible party [for a release] shall bear all costs of the
2853 release that are less than ten thousand dollars [or] and all persons shall
2854 bear all costs of the release that are more than one million dollars,
2855 except that for any such release which was reported to the department
2856 prior to December 31, 1987, and for which more than five hundred
2857 thousand dollars has been expended by the responsible party to
2858 remediate such release prior to June 19, 1991, the responsible party for
2859 the release shall bear all costs of such release which are less than ten
2860 thousand dollars or more than five million dollars, provided the
2861 portion of any reimbursement or payment in excess of three million
2862 dollars may, at the discretion of the commissioner, be made in annual
2863 payments for up to a five-year period. There shall be allocated to the
2864 department annually, for administrative costs, two million dollars.

2865 (b) There is established a subaccount within the underground
2866 storage tank petroleum clean-up account to be known as the
2867 "residential underground heating oil storage tank system clean-up
2868 subaccount" to be used solely for the provision of reimbursements
2869 under sections 22a-449l and 22a-449n, for the remediation of
2870 contamination attributed to residential underground heating oil
2871 storage tank systems. The subaccount shall hold the proceeds of the
2872 bond funds allocated pursuant to section 51 of public act 00-167*.

2873 (c) There is established a subaccount within the underground
2874 storage tank petroleum clean-up account to be known as the "pay for
2875 performance subaccount" with which the commissioner may
2876 implement a program, in consultation with the board, in which
2877 reimbursement or repayment in accordance with this section is based
2878 upon the achievement of environmental milestones or results. The
2879 commissioner, with the approval of the board, may enter into contracts
2880 to implement any such program.

2881 (d) (1) If an initial application or request for payment or

2882 reimbursement is received by the board before July 1, 2005, no
2883 supplemental application or request for payment or reimbursement
2884 shall be submitted to the board on or after October 1, 2009, regarding
2885 costs, expenses or other obligations paid or incurred in response to the
2886 release or suspected release noted in any such initial application or
2887 request for payment or reimbursement. The provisions of this
2888 subdivision shall apply regardless of whether the cost, expense or
2889 other obligation was paid or incurred before October 1, 2009, and no
2890 reimbursement or payment from the account shall be ordered by the
2891 board or made by the commissioner regarding any such supplemental
2892 application or request for payment or reimbursement received by the
2893 board on or after the October 1, 2009, deadline established in this
2894 subdivision.

2895 (2) If an initial application or request for payment or reimbursement
2896 is received by the board on or after July 1, 2005, no supplemental
2897 application or request for payment or reimbursement shall be
2898 submitted to the board more than five years after the date that the
2899 initial application or request for payment or reimbursement was
2900 received by the board, regarding costs, expenses or other obligations
2901 paid or incurred in response to the release or suspected release noted
2902 in such initial application or request for payment or reimbursement.
2903 The provisions of this subdivision shall apply regardless of whether a
2904 cost, expense or other obligation was paid or incurred before the
2905 expiration of the five-year deadline established in this subdivision and
2906 no reimbursement or payment from the account shall be ordered by
2907 the board or made by the commissioner regarding any such
2908 supplemental application or request for payment or reimbursement
2909 received by the board after the five-year deadline established in this
2910 subdivision.

2911 (3) Notwithstanding the provisions of subsection (i) of section 22a-
2912 449f, as amended by this act, if an application or request for payment
2913 or reimbursement is not brought before the board for a decision not
2914 later than six months after having been received by the board, then six

2915 months shall be added to the deadline applicable pursuant to
2916 subdivision (1) or (2) of this subsection, provided no more than two
2917 years shall be added to the deadline established pursuant to
2918 subdivision (1) or (2) of this subsection regardless of whether one or
2919 more applications or requests for payment or reimbursement have
2920 been received by the board but have not been brought before the board
2921 for a decision not later than six months after receipt. In addition, if the
2922 commissioner determines that an application or request for payment
2923 or reimbursement is ready for decision by the board and such
2924 application or request has been placed on the agenda for the meeting
2925 of the board, but cannot be brought before the board because the board
2926 is unable to meet or cannot act on such application or request, the
2927 deadlines established pursuant to subdivision (1) or (2) of this
2928 subsection shall also be extended only for that period that the board is
2929 unable to meet or is unable to act on such application or request.

2930 (4) The provisions of this subsection shall not apply to annual
2931 groundwater remedial actions, including the preparation of a
2932 groundwater remedial action progress report, performed pursuant to
2933 subdivision (6) of section 95 of this act. Notwithstanding the provisions
2934 of this subsection, the board may continue to receive applications or
2935 requests for payment or reimbursement and provided all other
2936 requirements have been met, may order payment or reimbursement
2937 from the account for such activities.

2938 (e) (1) Any person who has insurance, or a contract or other
2939 agreement to provide payment or reimbursement for any costs,
2940 expense or other obligation paid or incurred in response to a release or
2941 suspected release may submit an application or request seeking
2942 payment or reimbursement from the account to the board, provided
2943 any such application or request for payment or reimbursement shall be
2944 subject to all applicable requirements, including, but not limited to,
2945 subdivision (7) of subsection (c) of section 22a-449f, as amended by this
2946 act.

2947 (2) Any person who at any time receives or expects to receive
2948 payment or reimbursement from any source other than the account for
2949 any cost, expense, obligation, damage or injury for which such person
2950 has received or has applied for payment or reimbursement from the
2951 account, shall notify the board, in writing, of such supplemental or
2952 expected payment and shall, not more than thirty days after receiving
2953 such supplemental payment, repay the underground storage tank
2954 petroleum clean-up fund all such amounts received from any other
2955 source.

2956 (3) If the board determines that a person is seeking or has sought
2957 payment or reimbursement for any cost, expense, obligation, damage
2958 or injury from the account and that payment or reimbursement for any
2959 such cost, expense, obligation, damage or injury is actually or
2960 potentially available to any such person from any source other than the
2961 account, the board may impose any conditions it deems reasonable
2962 regarding any amount it orders to be paid from the account.

2963 Sec. 92. Section 22a-449d of the general statutes is repealed and the
2964 following is substituted in lieu thereof (*Effective from passage*):

2965 (a) There is established an Underground Storage Tank Petroleum
2966 Clean-Up Account Review Board. [to review applications for
2967 reimbursements and payments from the account established under
2968 section 22a-449c.] Upon application for reimbursement or payment
2969 pursuant to section 22a-449f, the board shall determine, [if a release
2970 occurred and damage resulted from such release and the amount of
2971 any such damage] based on the provisions of sections 22a-449a to 22a-
2972 449i, inclusive, as amended by this act, and all regulations adopted
2973 pursuant to said sections 22a-449a to 22a-449i, inclusive, whether or
2974 not to order payment or reimbursement from the account. The board
2975 shall have the authority to order payment from the residential
2976 underground heating oil storage tank system clean-up subaccount to
2977 registered contractors pursuant to section 22a-449l, or to owners
2978 pursuant to section 22a-449n, for reasonable costs associated with the

2979 remediation of a residential underground heating oil storage tank
2980 system based on the guidelines established pursuant to subsection (c)
2981 of this section; hold hearings, administer oaths, subpoena witnesses
2982 and documents through its chairperson when authorized by the board;
2983 designate an agent to perform such duties of the board as it deems
2984 necessary except the duty to render a final decision to order
2985 reimbursement or payment from the account; and provide by notice,
2986 printed on any form, that any false statement made thereof or
2987 pursuant thereto is punishable pursuant to section 53a-157b.

2988 (b) The board shall consist of the Commissioners of Environmental
2989 Protection and Revenue Services, the Secretary of the Office of Policy
2990 and Management and the State Fire Marshal, or their designees; one
2991 member representing the Connecticut Petroleum Council, appointed
2992 by the speaker of the House of Representatives; one member
2993 representing the Service Station Dealers Association, appointed by the
2994 majority leader of the Senate; one member of the public, appointed by
2995 the majority leader of the House of Representatives; one member
2996 representing the Independent Connecticut Petroleum Association,
2997 appointed by the president pro tempore of the Senate; one member
2998 representing the [Connecticut Gasoline Retailers Association] Gasoline
2999 and Automotive Service Dealers of America, Inc., appointed by the
3000 minority leader of the House of Representatives; one member
3001 representing a municipality with a population greater than one
3002 hundred thousand, appointed by the Governor; one member
3003 representing a municipality with a population of less than one
3004 hundred thousand, appointed by the minority leader of the Senate; one
3005 member representing a small manufacturing company which employs
3006 fewer than seventy-five persons, appointed by the speaker of the
3007 House of Representatives; one member experienced in the delivery,
3008 installation, and removal of residential underground petroleum
3009 storage tanks and remediation of contamination from such tanks,
3010 appointed by the president pro tempore of the Senate; and one
3011 member who is an environmental professional licensed under section
3012 22a-133v and is experienced in investigating and remediating

3013 contamination attributable to underground petroleum storage tanks,
3014 appointed by the Governor. The board shall annually elect one of its
3015 members to serve as chairperson.

3016 (c) Not later than July 1, 2000, the board shall establish guidelines
3017 for determining what costs are reasonable for payment under sections
3018 22a-449l and 22a-449n and shall establish requirements for financial
3019 assurance, training and performance standards for registered
3020 contractors, as defined in said sections 22a-449l and 22a-449n. The
3021 board shall make payment pursuant to section 22a-449n to the owner
3022 at a rate not to exceed one hundred fifty-seven dollars per ton of
3023 contaminated soil removed which shall be considered as full payment
3024 for all eligible costs for remediation. For any claim filed pursuant to
3025 section 22a-449n where no contaminated soil is removed the board
3026 shall reimburse eligible costs in accordance with the guidelines
3027 pursuant to this section.

3028 (d) To the extent that funds are available in the residential
3029 underground heating oil storage tank system clean-up subaccount, the
3030 board may order payment from such subaccount to registered
3031 contractors for reimbursement of eligible costs for services associated
3032 with the remediation of a residential underground heating oil storage
3033 tank system prior to July 1, 2001, to owners of such systems for
3034 payment for eligible costs incurred after July 1, 2001. No such payment
3035 shall be authorized unless the board deems the costs reasonable based
3036 on the guidelines established pursuant to subsection (c) of this section.
3037 Notwithstanding the provisions of this subsection, if the board
3038 determines that the owner may not receive reimbursement payment
3039 from the contractor, the board may, if reimbursement has not been sent
3040 to the contractor, directly reimburse the owner of such system for
3041 eligible costs incurred by the owner and paid to the registered
3042 contractor for services associated with a remediation of a system prior
3043 to July 1, 2001.

3044 Sec. 93. Section 22a-449e of the general statutes is repealed and the

3045 following is substituted in lieu thereof (*Effective from passage*):

3046 (a) The Commissioner of Environmental Protection, after
3047 consultation with the members of the [review] board established by
3048 section 22a-449d, as amended by this act, shall adopt regulations in
3049 accordance with the provisions of chapter 54 setting forth procedures
3050 for reimbursement and payment from the account established under
3051 section 22a-449c, as amended by this act. Such regulations shall include
3052 such provisions as the commissioner deems necessary to carry out the
3053 purposes of sections 22a-449a to 22a-449h, inclusive, as amended by
3054 this act, including, but not limited to, provisions for (1) notification of
3055 eligible parties of the existence of the account; (2) records required for
3056 submission of claims and reimbursement and payment; (3) periodic
3057 and partial reimbursement and payment to enable responsible parties
3058 to meet interim costs, expenses and obligations; and (4) reimbursement
3059 and payment for costs, expenses and obligations incurred in
3060 connection with releases or suspected releases, and incurred after July
3061 5, 1989, for releases discovered before or after said date provided
3062 reimbursement and payment shall not be made for costs, expenses and
3063 obligations incurred by a responsible party on or before said date.

3064 (b) (1) The commissioner, in accordance with the procedures set
3065 forth in subdivision (2) of this subsection, may prescribe a schedule for
3066 the maximum or range of amounts to be paid from the account for
3067 labor, equipment, materials, services or other costs, expenses or
3068 obligations paid or incurred as a result of a release or suspected
3069 release. Such schedule shall not be a regulation, as defined in section 4-
3070 166 and the adoption, modification, repeal or use of such schedule
3071 shall not be subject to the provisions of chapter 54 concerning a
3072 regulation. The amounts in any such schedule may be less than and
3073 shall be not more than the usual, customary and reasonable amounts
3074 charged, as determined by the commissioner. Notwithstanding the
3075 provisions of sections 22a-449a to 22a-449j, inclusive, as amended by
3076 this act, or any regulation adopted by the commissioner pursuant to
3077 this section, upon adoption of any such schedule, the amount to be

3078 paid from the account for any labor, equipment, materials, services or
3079 other costs, expenses or other obligations, shall not exceed the amount
3080 established in any such schedule and such schedule may serve as
3081 guidance with respect to any costs, expenses or other obligations paid
3082 or incurred before the adoption of such schedule.

3083 (2) The commissioner shall adopt, revise or revoke said schedule in
3084 accordance with the provisions of this subsection. After consultation
3085 with the board, the commissioner shall publish notice of intent to
3086 adopt, revise or revoke the schedule, or any portion thereof, in a
3087 newspaper having substantial circulation in the affected area. There
3088 shall be a comment period of thirty days following publication of such
3089 notice during which interested persons may submit written comments
3090 to the commissioner. The commissioner shall publish notice of the
3091 adoption, revision or revocation of the schedule, or part thereof, in a
3092 newspaper having substantial circulation in the affected area. The
3093 commissioner shall, upon request, review and shall make any revisions
3094 the commissioner deems necessary to such schedule not more than
3095 once every two years or may do so more frequently as the
3096 commissioner deems necessary. The commissioner, after consultation
3097 with the board, may revise or revoke the schedule, in whole or in part,
3098 using the procedures specified in this subsection. Any person may
3099 request that the commissioner adopt, revise or revoke the schedule in
3100 accordance with this subsection.

3101 (c) Upon adoption of a schedule by the commissioner pursuant to
3102 subsection (b) of this section, the requirements concerning obtaining
3103 three bids for services rendered contained in regulations adopted
3104 pursuant to this section shall not apply, provided that the schedule
3105 includes the subject services.

3106 (d) An environmental professional, who has a currently valid and
3107 effective license issued pursuant to section 22a-133v, shall use a seal, as
3108 provided for in regulations adopted pursuant to section 22a-133v, to
3109 provide written approval required under section 22a-449c, as amended

3110 by this act, section 22a-449f, as amended by this act, and section 95 of
3111 this act, and any approval without a seal shall not constitute an
3112 approval of a licensed environmental professional. The regulations
3113 adopted pursuant to section 22a-133v regarding the use of a seal and
3114 the rules of professional conduct shall apply to the duties of a licensed
3115 environmental professional contained in sections 22a-449a to 22a-449i,
3116 inclusive, as amended by this act, and section 95 of this act.

3117 Sec. 94. Section 22a-449f of the general statutes is repealed and the
3118 following is substituted in lieu thereof (*Effective from passage*):

3119 (a) A responsible party may apply to the Underground Storage
3120 Tank Petroleum Clean-Up Account Review Board established under
3121 section 22a-449d, as amended by this act, for reimbursement for costs
3122 paid and payment of costs incurred as a result of a release, or a
3123 suspected release, including costs of investigating and remediating a
3124 release, or a suspected release, incurred or paid by [a responsible] such
3125 party who is determined not to have been liable for any such release. If
3126 a person [or entity,] other than a responsible party, claims to have
3127 suffered [damage or personal injury] bodily injury, property damage
3128 or damage to natural resources from a release, [and] the person with
3129 such claim shall make reasonable attempts to provide written notice to
3130 the responsible party of such claim and if such person cannot provide
3131 such notice or if the responsible party [denies there was a release or]
3132 does not apply to the board for payment of such claim not later than
3133 sixty days after receipt of such notice or such other time as may be
3134 agreed to by the parties, the person [or entity] holding such claim may
3135 apply to the board for payment for such damage or [personal] bodily
3136 injury.

3137 (b) (1) In addition to all other applicable requirements, a person
3138 seeking payment or reimbursement from the account shall
3139 demonstrate that when the total costs, expenses or other obligations in
3140 response to a release or suspected release (A) are two hundred fifty
3141 thousand dollars or less, that all labor, equipment and materials

3142 provided after October 1, 2005, and all services and activities
3143 undertaken after October 1, 2005, shall be approved, in writing, either
3144 by the commissioner or by a licensed environmental professional with
3145 a currently valid and effective license issued pursuant to section 22a-
3146 133v; and (B) exceeds two hundred fifty thousand dollars, that all
3147 labor, equipment and materials provided after October 1, 2005, and all
3148 services and activities undertaken after October 1, 2005, shall be
3149 approved, in writing, by the commissioner or that the commissioner
3150 has authorized, in writing, an environmental professional with a
3151 currently valid and effective license issued pursuant to section 22a-
3152 133v to approve, in writing, such labor, equipment, materials, services
3153 and activities, in lieu of a written approval by the commissioner. The
3154 provisions of this subsection shall apply to all costs, expenses or other
3155 obligations for which a person is seeking payment or reimbursement
3156 from the account and the board shall not order and the commissioner
3157 shall not make payment or reimbursement from the account for any
3158 cost, expense or other obligation, unless the person seeking such
3159 payment or reimbursement includes with an application or with a
3160 request for payment or reimbursement all written approvals required
3161 by this subdivision.

3162 (2) The fees charged by a licensed environmental professional
3163 regarding labor or services rendered in response to a release or
3164 suspected release may be included in any application or request for
3165 payment or reimbursement submitted to the board. The amount to be
3166 paid or reimbursed from the account for such fees may also be
3167 established in the schedule adopted by the commissioner pursuant to
3168 subsection (b) of section 22a-449e, as amended by this act.

3169 (3) Providing it is true and accurate, a licensed environmental
3170 professional shall submit the following certification regarding any
3171 approval provided under subdivision (1) of this subsection and section
3172 95 of this act: "I hereby agree that all of the labor, equipment, materials,
3173 services, and activities described in or covered by this certification was
3174 appropriate under the circumstances to abate an emergency or was

3175 performed as part of a plan specifically designed to ensure that the
3176 release or suspected release is or has been investigated in accordance
3177 with prevailing standards and guidelines and remediated consistent
3178 with and to achieve compliance with the remediation standards
3179 adopted under section 22a-133k of the general statutes."

3180 (c) The board shall order reimbursement or payment from the
3181 account for any cost paid or incurred, as the case may be, if, (1) such
3182 cost is or was incurred after July 5, 1989, (2) [the] a responsible party
3183 was or would have been required to demonstrate financial
3184 responsibility under 40 CFR Part 280.90 et seq. as said regulation was
3185 published in the Federal Register of October 26, 1988, for the
3186 underground storage tank or underground storage tank system from
3187 which the release emanated, whether or not such [owner] party is
3188 required to comply with said requirements on the date any such cost is
3189 incurred, provided if the state is the responsible party, the board may
3190 order payment from the account without regard to whether the state
3191 was or would have been required to demonstrate financial
3192 responsibility under said sections 40 CFR Part 280.90 et seq., (3) after
3193 the release, if any, the responsible party incurred a cost, expense or
3194 obligation for investigation, cleanup or for claims of [third parties] a
3195 person other than a responsible party resulting from [a] the release,
3196 provided any [third party] such claim shall be required to be finally
3197 adjudicated or settled with the prior written approval of the board
3198 before an application for reimbursement or payment is made, (4) the
3199 board determines that the cost, [is for damage that was incurred as a
3200 result of the release,] expense or other obligation is reasonable and that
3201 [the] there are not grounds for recovery specified in [subsection (b)]
3202 subdivision (1) or (3) of subsection (g) of this section, [do not exist at
3203 the time such determination is made,] (5) the responsible party notified
3204 the [board] commissioner of the release in accordance with regulations
3205 adopted pursuant to section 22a-449, as amended by this act, or, where
3206 such regulations are not applicable, as soon as practicable, [of the
3207 release,] and notified the board, as soon as practicable, of any [third
3208 party] claim by a person other than a responsible party, resulting from

3209 the release, [in accordance with the regulations adopted pursuant to
3210 section 22a-449e, and] (6) the [applicant] responsible party, or, if a
3211 person other than a responsible party applies for payment or
3212 reimbursement from the account, then such person demonstrates the
3213 remediation, including any monitoring to determine the effectiveness
3214 of the remediation, for which payment or reimbursement is sought is
3215 not more stringent than that required by the remediation standards
3216 established pursuant to section 22a-133k, except to the extent the
3217 [applicant] responsible party or such person demonstrates that it has
3218 been directed otherwise, in writing, by the [Department of
3219 Environmental Protection] commissioner, (7) the responsible party, or,
3220 if a person other than a responsible party applies for payment or
3221 reimbursement from the account, then such person demonstrates that
3222 it does not have insurance, or a contract or other agreement to provide
3223 payment or reimbursement for any cost, expense or other obligation
3224 incurred in response to a release or suspected release, or if there is any
3225 such insurance, contract or other agreement, that any insurance
3226 coverage has been denied or is insufficient to cover the costs, expenses
3227 or other obligations, paid or incurred or that any contract or other
3228 agreement is not able to or is insufficient to cover the costs, expenses or
3229 other obligations, paid or incurred, for which payment or
3230 reimbursement is sought from the account, (8) the responsible party
3231 demonstrates and the board determines that one of the milestones
3232 noted in section 95 of this act has been completed, (9) the board
3233 determines what, if any, reductions to the amounts sought from the
3234 account should be made based upon the compliance evaluations
3235 performed pursuant to subsection (d) of this section, and (10) if at the
3236 time any application or request for payment or reimbursement,
3237 including any supplemental application or request, is submitted to the
3238 board, there is no underground storage tank system dispensing
3239 petroleum on the property where the release or suspected release
3240 emanated or occurred, then the responsible party demonstrates, in
3241 addition to all other applicable requirements, that lack of compliance
3242 with provisions of the general statutes and regulations governing

3243 underground storage tank systems was not a proximate cause of the
3244 release or suspected release and that there are not grounds for
3245 recovery specified in subdivision (2) of subsection (g) of this section. In
3246 acting on an application or a request for payment or reimbursement,
3247 the board, using funds from the [underground storage tank petroleum
3248 clean-up] account, may contract with experts, including, but not
3249 limited to, attorneys and medical professionals, to better evaluate and
3250 defend against claims and negotiate [third party] claims by persons
3251 other than responsible parties. The costs of the board for experts shall
3252 not be charged to the amount allocated to the Department of
3253 Environmental Protection pursuant to section 22a-449c, as amended by
3254 this act. If a person other than a responsible party applies to the board
3255 claiming to have suffered bodily injury, property damage or damage
3256 to natural resources, the board shall order reimbursement or payment
3257 from the account if such person demonstrates that subdivisions (1), (2),
3258 (6) and (7) of this subsection are satisfied, the board determines that as
3259 a result of a release or suspected release such person has suffered
3260 bodily injury, property damage or damage to natural resources, that
3261 the costs, expenses or other obligations incurred are reasonable and the
3262 person submitting such claim demonstrates that it has attempted to or
3263 has provided written notice of its claim to the responsible party as
3264 required in subsection (a) of this section and that the responsible party
3265 has not applied to the board for payment or reimbursement of this
3266 claim.

3267 (d) (1) Except as provided in this subsection, if at the time any
3268 application or request for payment or reimbursement is submitted to
3269 the board, including any supplemental application or request, there is
3270 an underground storage tank system dispensing petroleum on the
3271 property where the release or suspected release emanated or occurred,
3272 such application or request shall not be deemed complete and shall not
3273 be acted upon by the board unless such application or request includes
3274 a summary of the compliance status of all the underground storage
3275 tank systems on the subject property. Any such summary shall include
3276 an evaluation of compliance with the design, construction, installation,

3277 notification, general operating, release detecting, system upgrading,
3278 abandonment and removal date requirements of the regulations
3279 adopted pursuant to sections 22a-449, as amended by this act, and 22a-
3280 449o and shall be prepared by an independent consultant on a form
3281 prescribed by or acceptable to the commissioner. The summary shall
3282 be based on an evaluation of said underground storage tank systems
3283 performed not more than one hundred eighty days before the board
3284 receives an application or a request for reimbursement or payment,
3285 except that with respect to any provision of the subject regulations
3286 regarding record keeping, periodic monitoring or testing, the summary
3287 shall be based on an evaluation of a one year period terminating
3288 within one hundred eighty days prior to the board's receipt of an
3289 application or a request for payment or reimbursement. The summary
3290 shall also include a full description of all corrective measures that have
3291 been taken or that are being taken with regard to any noncompliance
3292 identified in the compliance evaluation performed pursuant to this
3293 subdivision.

3294 (2) With respect to any initial application or request for payment or
3295 reimbursement regarding a release or suspected release the provisions
3296 of subdivision (1) of this subsection shall apply only to applications or
3297 requests received on or after January 1, 2006. With respect to any
3298 supplemental application or request for payment or reimbursement
3299 regarding a release or suspected release, the provisions of subdivision
3300 (1) of this subsection shall apply to each application or request
3301 submitted to the board on or after January 1, 2006, regardless of when
3302 the initial application or request was submitted, except that submission
3303 of a compliance summary shall not be required if at the time a
3304 supplemental application or request is submitted, less than one year
3305 has passed since the performance of a compliance evaluation
3306 submitted with any prior application or request.

3307 (3) The cost of hiring an independent consultant to perform a
3308 compliance evaluation, as required by this subsection, shall be eligible
3309 for payment or reimbursement from the account up to a maximum of

3310 one thousand dollars per compliance evaluation, provided the
3311 evaluation is in conformance with the requirements of this subsection
3312 and includes all underground storage tank systems on the property
3313 where a release or suspected release emanated or occurred. If the
3314 schedule adopted by the commissioner pursuant to subsection (b) of
3315 section 22a-449e, as amended by this act, includes an amount for
3316 performing a compliance evaluation, upon adoption of any such
3317 schedule, the amount eligible for payment or reimbursement for
3318 performing a compliance evaluation shall be the amount prescribed in
3319 any such schedule.

3320 (4) Nothing in this subsection shall affect the continued applicability
3321 of any decision of the board to (A) deny reimbursement or payment
3322 from the account, or (B) provide only partial payment or
3323 reimbursement regarding all applications or requests for payment or
3324 reimbursement from the account. Any such decision shall remain in
3325 effect and shall not be subject to reconsideration or reevaluation as a
3326 result of this subsection.

3327 (5) Except as provided for in this subdivision, if at the time any
3328 application or request for payment or reimbursement, including any
3329 supplemental application or request, is submitted, there is no
3330 underground storage tank system dispensing petroleum on the
3331 property where the release or suspected release emanated or occurred,
3332 any such application or request shall be subject to the provisions of
3333 subdivision (10) of subsection (c) of this section, even where a prior
3334 application or request was subject to the provisions of this subsection.
3335 The provisions of this subdivision shall not apply to an application or
3336 request for payment or reimbursement for annual groundwater
3337 remedial actions, including the preparation of a groundwater remedial
3338 action progress report, performed pursuant to subdivision (6) of
3339 section 95 of this act.

3340 (e) (1) If the compliance evaluation summary performed pursuant to
3341 subsection (d) of this section indicates that any of the violations noted

3342 in this subdivision exist with respect to any underground storage tank
3343 or underground storage tank system on the property at which a release
3344 or suspected release occurred and any such violations have not been
3345 fully corrected by the time an application or request for reimbursement
3346 is submitted to the board, the board shall reduce any payment or
3347 amount to be reimbursed as follows: (A) A one hundred per cent
3348 reduction of the payment or amount to be reimbursed for failure to
3349 meet the tank or piping construction requirements of section 22a-449o
3350 or the regulations adopted pursuant to section 22a-449, as amended by
3351 this act, or for failure to report the release to the commissioner as
3352 required by this section, (B) a seventy-five per cent reduction of the
3353 payment or amount to be reimbursed for failure to have properly
3354 functioning cathodic protection, spill prevention, overfill prevention,
3355 or release detection as required by the regulations adopted pursuant to
3356 section 22a-449, as amended by this act. Notwithstanding the
3357 provisions of this subsection, the board may reduce any amount to be
3358 paid or reimbursed based on any other violation of the provisions of
3359 the general statutes or regulations of Connecticut state agencies
3360 regarding ownership or operation of an underground storage tank
3361 system.

3362 (2) Nothing in this subsection and no determination by the board of
3363 any issue of fact or law shall affect the authority of the commissioner
3364 under any other statute or regulations, including, but not limited to,
3365 taking any enforcement action based upon the violations identified in
3366 any compliance evaluation performed pursuant to subsection (d) of
3367 this section.

3368 [(b) (1) For all work or services performed or materials provided
3369 after October 1, 2004, the board shall not order payment or
3370 reimbursement from the account for any cost paid or incurred, unless
3371 the application or preauthorization request seeking payment or
3372 reimbursement is received by the board within one hundred eighty
3373 days of the date that such work or services were rendered or
3374 performed or the date that any material was provided.]

3375 [(2)] ~~(f)~~ (1) For all work or services performed or materials provided
3376 before October 1, 2004, the board shall not order payment or
3377 reimbursement from the account for any cost paid or incurred, unless
3378 when seeking payment or reimbursement, the application or
3379 [preauthorization request seeking payment or reimbursement] any
3380 submission regarding work, services or materials that have been pre-
3381 authorized by the board is received by the board on or before April 1,
3382 2005.

3383 [(3)] (2) For purposes of this subsection, work or services shall be
3384 deemed rendered or performed on the date such work is rendered or
3385 performed and a material shall be deemed provided on the date a
3386 material is made available for use.

3387 (3) After the effective date of this section, the board shall not order
3388 payment or reimbursement from the account for any cost, expense or
3389 other obligation, paid or incurred, unless the application or request for
3390 payment or reimbursement is received by the board not later than one
3391 year after the completion of all or substantially all of the work or
3392 activities necessary to prepare the plan or report required by the
3393 milestones set forth in section 95 of this act.

3394 [(c)] (g) The Attorney General, upon the request of the board [,] or
3395 the commissioner, may institute an action in the superior court for the
3396 judicial district of Hartford to recover the amounts specified in this
3397 section from [the responsible party] any person who owns or operates
3398 an underground storage tank system at the time a release emanates or
3399 occurs from such system or any person who owns the real property on
3400 which a release emanates or occurs, provided such person owned the
3401 real property at or any time after the release emanates or occurs until
3402 the time that a final remediation action report is submitted by a
3403 licensed environmental professional or approved by the commissioner
3404 pursuant to subdivision (7) of section 95 of this act, if: (1) Prior to the
3405 occurrence of the release, the underground storage tank or
3406 underground storage tank system from which the release emanated

3407 was required by regulations adopted under section 22a-449, as
3408 amended by this act, to [be the subject of] to submit a notification to
3409 the [Commissioner of Environmental Protection] commissioner but
3410 [the responsible party knowingly and intentionally failed to notify the
3411 commissioner] no such notification was provided; (2) the release
3412 results from a reckless, wilful, wanton or intentional act or omission of
3413 [a responsible party] such person or a negligent act or omission of such
3414 person that constitutes noncompliance with the general statutes or
3415 regulations governing the installation, operation and maintenance of
3416 underground storage tanks; or (3) the release occurs from an
3417 underground storage tank or system which is not in compliance with
3418 [an] a final order issued by the commissioner pursuant to this chapter
3419 or [with the general statutes and regulations governing the installation,
3420 operation and maintenance of underground storage tanks and such
3421 lack of compliance was a proximate cause of such release] a final
3422 judgment issued by a court concerning non-compliance with a
3423 requirement of this chapter; or (4) payment has been made from the
3424 account, including payment to the commissioner pursuant to
3425 subsection (i) of this section, to a person other than a person against
3426 whom an action may be brought pursuant to this subsection. All costs
3427 to the state relating to actions to recover such payments, including, but
3428 not limited to, reasonable attorneys' fees, shall initially be paid from
3429 the underground storage tank petroleum clean-up account. In any
3430 recovery the board or the commissioner is entitled to recover from [a
3431 responsible party] such person (A) all payments made [by the board]
3432 from the account with respect to a release or suspected release,
3433 [including, but not limited to, payments to third parties,] (B) all
3434 payments made by the [Department of Environmental Protection]
3435 commissioner pursuant to subsection [(d)] (i) of this section with
3436 respect to a release or suspected release, (C) interest on such payments
3437 at a rate of ten per cent per year from the date such payments were
3438 made, and (D) all costs of the state relating to actions to recover such
3439 payments, including, but not limited to, reasonable attorneys' fees. All
3440 actions brought pursuant to this section shall have precedence in the

3441 order of trial, as provided in section 52-191. If the Attorney General has
3442 filed an action against a person seeking recovery of the amounts
3443 specified in this subsection or if the commissioner sends a person a
3444 demand letter regarding costs incurred by the state pursuant to section
3445 22a-451, any such person against whom an action has been brought or
3446 who receives a demand letter shall not submit an application or
3447 request for payment or reimbursement to the board seeking payment
3448 or reimbursement of any such amount sought by the Attorney General
3449 or by the commissioner. If any such application or request for payment
3450 or reimbursement is submitted, the board shall not take any action
3451 regarding any such application or request.

3452 [(d)] (h) The [review] board shall render its decision not more than
3453 ninety days after receipt of an application from a [responsible party or
3454 a third party] person, provided, in the case of a second or subsequent
3455 application, the board shall render its decision not more than forty-five
3456 days after receipt of such application. A copy of the decision shall be
3457 sent to the [Commissioner of Environmental Protection] commissioner
3458 and the [applicant or responsible party] person seeking payment or
3459 reimbursement by certified mail, return receipt requested. The
3460 [Commissioner of Environmental Protection] commissioner or any
3461 person aggrieved by the decision of the board may, within twenty
3462 days from the date of issuance of such decision, request a hearing
3463 before the board in accordance with the provisions of chapter 54. After
3464 such hearing, the board shall consider the information submitted to it
3465 and affirm or modify its decision on the application. A copy of the
3466 affirmed or modified decision shall be sent to [the applicant or
3467 responsible party] all parties to the hearing by certified mail, return
3468 receipt requested. Once the board renders a decision regarding an
3469 application or request for payment or reimbursement and no hearing
3470 has been requested pursuant to this subsection regarding any such
3471 decision, the costs, expenses or other obligations addressed by any
3472 such decision shall not be resubmitted in any other application or
3473 request.

3474 [(e)] (i) Whenever the commissioner determines that as a result of a
3475 release, as defined in section 22a-449a, as amended by this act, or a
3476 suspected release, a clean-up is necessary, including, but not limited to,
3477 actions to prevent or abate pollution or a potential source of pollution
3478 and to provide potable drinking water, the commissioner may
3479 undertake such actions using not more than one million dollars from
3480 the underground storage tank petroleum clean-up account for each
3481 release or suspected release from an underground storage tank or an
3482 underground storage tank system for which the responsible party is
3483 the state or for which [the] a responsible party was or would have been
3484 required to demonstrate financial responsibility under 40 CFR Part
3485 280.90 et seq., as said regulation was published in the Federal Register
3486 of October 26, 1988. [In addition, if a responsible party refuses to pay
3487 the first ten thousand dollars of third party claims, and has not already
3488 paid ten thousand dollars of costs resulting from the release or
3489 suspected release, the commissioner shall, upon order of the board
3490 pursuant to this section, make payment or reimbursement of the first
3491 ten thousand dollars of third party claims, provided (1) no more than
3492 ten thousand dollars of third party claims shall be paid pursuant to
3493 this subsection for each release or suspected release from an
3494 underground storage tank system for which the responsible party is
3495 the state or for which the responsible party was or would have been
3496 required to demonstrate financial responsibility under 40 CFR Part
3497 280.90 et seq., as said regulation was published in the Federal Register
3498 of October 26, 1988, and (2) that the board shall be entitled to recover
3499 such ten thousand dollars, notwithstanding the existence of the
3500 conditions specified in subdivisions (1) to (3), inclusive, of subsection
3501 (b) of this section.]

3502 (j) (1) If through an initial application or request for payment or
3503 reimbursement received by the board before June 1, 2005, the board
3504 has determined that a person has paid or incurred costs, expenses or
3505 other obligations that are eligible for payment or reimbursement from
3506 the account, with respect to any supplemental application or request
3507 for payment or reimbursement the following shall apply. The

3508 commissioner may identify a category of activities, costs, expenses, or
3509 other obligations that are less than one hundred thousand dollars for
3510 which, in lieu of full payment, the board may approve a percentage of
3511 the costs, expenses or other obligations paid or incurred. In making
3512 any such recommendation to the board, the commissioner shall
3513 consider the amounts previously paid from the account and any other
3514 information the commissioner deems relevant. Any such percentage
3515 shall be not more than, but may be less than, ninety per cent of the
3516 average amount, as determined by the commissioner, previously paid
3517 from the account for any activity, cost, expense or obligation. The
3518 board shall approve or disapprove, but shall not modify, payment of
3519 the percentage recommended by the commissioner pursuant to this
3520 subdivision. The commissioner may, using the procedures specified in
3521 this subdivision, recommend changes to any percentage previously
3522 approved by the board under this subdivision.

3523 (2) If the board approves payment of the percentage recommended
3524 by the commissioner, a person with a supplemental application or
3525 request for payment or reimbursement may agree to accept the
3526 percentage payment approved by the board. Any such acceptance
3527 shall be in writing, signed by the person seeking payment or
3528 reimbursement and shall acknowledge that the person is agreeing to
3529 accept less than the full amount sought by such person for the costs,
3530 expenses or other obligations covered by such acceptance. If the
3531 commissioner has prescribed forms, any such acceptance shall be
3532 made using the forms prescribed by the commissioner. Once a
3533 completed written acceptance is received, the board shall, not later
3534 than ninety days after receiving such acceptance, determine whether to
3535 order payment or reimbursement from the account. Any such
3536 determination by the board shall be limited to whether the costs,
3537 expenses or other obligations are within those for which the board has
3538 approved payment pursuant to subdivision (1) of this subsection.

3539 (3) Any amount ordered to be paid or reimbursed by the board shall
3540 be considered full payment for any such activity, expense or other

3541 obligation and a person shall not seek any additional reimbursement
3542 from the account for any such activity, expense or other obligation. The
3543 categories or activities for which the commissioner recommends
3544 payment of a percentage pursuant to this subsection may constitute all
3545 or a portion of the amounts sought in a supplemental application or
3546 supplemental request for payment or reimbursement.

3547 (k) Notification to the commissioner pursuant to regulations
3548 adopted pursuant to section 22a-449, as amended by this act, shall
3549 constitute compliance with any regulation adopted pursuant to section
3550 22a-449e, as amended by this act, regarding notification to the board of
3551 a release.

3552 Sec. 95. (NEW) (*Effective from passage*) Notwithstanding any
3553 provision of sections 22a-449a to 22a-449i, inclusive, of the general
3554 statutes, as amended by this act, or any regulation adopted pursuant to
3555 said sections, except as provided for in subdivision (6) of this section,
3556 with respect to the investigation and remediation of a release, the
3557 underground storage tank clean-up account established pursuant to
3558 section 22a-449c of the general statutes, as amended by this act, shall
3559 be used to provide payment or reimbursement only when any of the
3560 following milestones are completed:

3561 (1) A release response report prepared by an environmental
3562 professional, as defined in section 22a-133v of the general statutes, has
3563 been submitted to the Commissioner of Environmental Protection
3564 which report describes: (A) All initial response actions taken that are
3565 necessary to prevent an on-going release and to mitigate an explosion,
3566 fire or other safety hazard resulting from the release, (B) the results of
3567 an initial site investigation that determines the presence and extent of
3568 free product from the release, the potential for or existence of
3569 groundwater pollution from the release which threatens the quality of
3570 drinking water well or wells, and whether the release has resulted in
3571 soil vapors or indoor air that threatens public health, and (C) all
3572 interim actions taken and proposed to remove such free product to the

3573 extent technically practicable, to provide potable water to any person
3574 whose drinking water has been polluted by a substance from the
3575 release which is above the groundwater protection criteria or above a
3576 level determined by the Commissioner of Public Health to be an
3577 unacceptable risk of injury to the health or safety of persons using such
3578 groundwater as a public or private source of water for drinking or
3579 other personal or domestic uses, whichever is more stringent, and to
3580 mitigate any risk to public health from polluted soil vapor or indoor
3581 air resulting from the release.

3582 (2) An interim remedial action report approved, in writing, by a
3583 licensed environmental professional has been submitted to the
3584 Commissioner of Environmental Protection or an interim remedial
3585 action report has been approved, in writing, by the commissioner.
3586 Such interim remedial action report shall describe in detail all interim
3587 remedial action taken to: (A) Remove free product to the maximum
3588 extent technically practicable; (B) ensure that all persons whose
3589 drinking water was polluted by the release have been provided
3590 potable water; and (C) ensure that soil vapors which pose a risk to
3591 public health are prevented from migrating into any overlying
3592 buildings.

3593 (3) An investigation report and remedial action plan approved, in
3594 writing, by a licensed environmental professional has been submitted
3595 to the Commissioner of Environmental Protection, or an investigation
3596 report and remedial action plan has been approved, in writing, by the
3597 commissioner. Such investigation report and remedial action plan shall
3598 include a detailed description of an investigation which determines the
3599 existing and potential extent and degree of soil, surface water, soil
3600 vapor and groundwater pollution, on and off-site, resulting from the
3601 release and describes all actions proposed to remediate soil, surface
3602 water, air or groundwater polluted by the release in accordance with
3603 the regulations adopted pursuant to section 22a-133k of the general
3604 statutes.

3605 (4) A soil remedial action report approved, in writing, by a licensed
3606 environmental professional has been submitted to the Commissioner
3607 of Environmental Protection, or a soil remedial action report has been
3608 approved, in writing, by the commissioner. Such soil remedial action
3609 report shall describe in detail the extent of soil pollution resulting from
3610 the release, all remedial actions taken to abate such soil pollution, and
3611 all documentation that demonstrates that such soil pollution has been
3612 remediated in accordance with the regulations adopted pursuant to
3613 section 22a-133k of the general statutes.

3614 (5) A groundwater remedial action progress report approved, in
3615 writing, by a licensed environmental professional has been submitted
3616 to the Commissioner of Environmental Protection or a groundwater
3617 remedial action progress report has been approved, in writing, by the
3618 commissioner. Such report may only be submitted after all
3619 construction necessary to implement the approved groundwater
3620 remedial actions have been completed and that the groundwater
3621 remedial actions have been operated and monitored for one year. Such
3622 report shall include a detailed description of the remedial actions, the
3623 results of groundwater or any other monitoring conducted, an analysis
3624 of whether the remedial actions are effective, and a proposal for any
3625 changes in the groundwater remedial actions and monitoring that may
3626 be necessary to achieve compliance with the regulations adopted
3627 pursuant to section 22a-133k of the general statutes.

3628 (6) An annual groundwater remedial action progress report
3629 approved, in writing, by a licensed environmental professional has
3630 been submitted to the Commissioner of Environmental Protection or
3631 approved, in writing, by the commissioner. Such report shall include a
3632 detailed description of the remedial actions, the results of groundwater
3633 or any other monitoring conducted for the year covered by the report,
3634 an analysis of whether the remedial actions are effective, and a
3635 proposal for any changes in the groundwater remedial actions and
3636 monitoring that may be necessary to achieve compliance with the
3637 regulations adopted pursuant to section 22a-133k of the general

3638 statutes. A responsible party of section 22a-449f of the general statutes,
3639 as amended by this act, may submit to the board up to, but not more
3640 than, four separate applications or requests for payment or
3641 reimbursement in a calendar year regarding costs, expenses or
3642 obligations paid or incurred concerning annual groundwater
3643 monitoring or compliance with this subdivision.

3644 (7) A final remedial action report approved by a licensed
3645 environmental professional has been submitted to the Commissioner
3646 of Environmental Protection, or a final remedial action report has been
3647 approved, in writing, by the commissioner that documents that the
3648 release has been investigated in accordance with prevailing standards
3649 and guidelines and that the soil, surface water, groundwater and air
3650 polluted by the release has been remediated in accordance with the
3651 regulations adopted pursuant to section 22a-133k of the general
3652 statutes.

3653 (8) The Commissioner of Environmental Protection may adopt
3654 regulations, in accordance with the provisions of chapter 54 of the
3655 general statutes, establishing milestones for investigation and
3656 remediation of releases or suspected releases from underground
3657 storage tank systems, including milestones that differ from those set
3658 forth in this section. Upon the adoption of such regulations, the
3659 milestones for investigation and remediation for which payment or
3660 reimbursement is available from the account shall be those set forth in
3661 the regulations.

3662 (9) This section shall apply to an application or request for
3663 reimbursement or payment received by the board on or after October
3664 1, 2005, regardless of when the release or suspected release occurred,
3665 whether actions in response to the release or suspected release have
3666 already occurred or whether prior applications or requests seeking
3667 payment or reimbursement have already been submitted to the board.

3668 Sec. 96. (*Effective from passage*) Not later than one hundred eighty
3669 days after the effective date of this section, the Commissioner of

3670 Environmental Protection, in consultation with the board, shall
3671 develop and implement a plan for processing applications submitted
3672 to the board, with emphasis on applications that were submitted
3673 before June 30, 2005. Such plan may include, but need not be limited
3674 to, expedited procedures for processing certain categories of
3675 applications, identifying, providing notice of and processing
3676 incomplete applications, and providing assistance to applicants on
3677 how to submit complete applications. At six-month intervals, until July
3678 31, 2007, the commissioner shall provide the board with updates
3679 regarding the implementation of such plan. On or before July 31, 2007,
3680 the commissioner shall prepare a report describing the progress
3681 regarding processing of applications that were submitted before June
3682 30, 2005, estimated results achieved by utilizing new or revised
3683 procedures, the number and amount of applications pending and any
3684 recommendations for further improvements. Prior to implementing
3685 the plan required by this section, the commissioner shall seek comment
3686 from the public.

4121 Sec. 114. Section 145 of public act 03-6 of the June 30 special session,
4122 as amended by section 1 of public act 04-244, is repealed. (*Effective from*
4123 *passage*)

This act shall take effect as follows and shall amend the following sections:

Sec. 89	<i>from passage</i>	22a-449
Sec. 90	<i>from passage</i>	22a-449a
Sec. 91	<i>from passage</i>	22a-449c
Sec. 92	<i>from passage</i>	22a-449d
Sec. 93	<i>from passage</i>	22a-449e
Sec. 94	<i>from passage</i>	22a-449f
Sec. 95	<i>from passage</i>	New section
Sec. 96	<i>from passage</i>	New section
Sec. 114	<i>from passage</i>	Repealer section