



State of Connecticut
Department of Environmental Protection
Bureau of Water Protection and Land Reuse
Underground Storage Tank Petroleum Clean-Up Program
79 Elm Street, 4th Floor www.ct.gov/dep
Hartford, CT 06106-5127 Telephone: (860) 424-3370

Responsible Party Initial Application Instructions

Pursuant to §§ 22a-449a through 22a-449p, as amended, of the Connecticut General Statutes (CGS), follow these instructions to complete an initial application for reimbursement. Please note that this document is for guidance purposes only and does not supersede the general statutes and regulations implemented thereunder or otherwise constitute legal advice. If you have any questions regarding these instructions, please contact the Department of Environmental Protection (DEP), Underground Storage Tank (UST) Petroleum Clean-up Program (Clean-up Program) staff at (860) 424-3370.

Definitions as used in the application:

- Applicant:** Person, corporation, or other entity that has incurred costs to clean up a release from an UST and is requesting reimbursement from the Clean-up Program.
- Claim Number:** Number the Clean-up Program staff assigned to the specific claim.
- Contact Person:** Individual whom Clean-up Program staff will contact to process the claim. **All DEP questions, correspondence, Summaries of Claim, agendas, and decision letters will be addressed to the designated contact person.**
- Payee:** Person, corporation, or other entity designated by the applicant to receive payment from the Clean-up Program. Please note that due to federal bankruptcy laws, this request may not be honored if the applicant declares bankruptcy.
- Release:** Any loss of petroleum to the environment from an eligible UST system (i.e., one containing motor fuel, waste oil without hazardous wastes, or heating oil for resale).
- Responsible Party:** For an application or request for payment or reimbursement received 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 subclause (i) or (ii) of this subparagraph through a direct or indirect familial relationship or any contractual, corporate or financial relationship.
- For example:
- ◆ Any person, corporation, or other entity who at any time owns, leases, uses, or has an interest in real property on which the UST system from which the release emanates or emanated, was or is located.
 - ◆ Any person, corporation, or other entity who at any time owns, leases, operates, uses, or had an interest in the UST system from which the release emanates or emanated.
 - ◆ Anyone affiliated with the UST system owner/operator, etc. or the property owner/lessor, etc. through a direct or indirect familial relationship or any contractual, corporate, or financial relationship.
- Site:** Real property on which the leaking UST(s) is or was located.
- Site Number:** Number assigned by the Clean-up Program staff for the release.
- Third party:** Person other than a responsible party, such as an adjacent property owner or person

who has suffered bodily injury, property damage, and/or damage to natural resources.

UST: Underground storage tank system(s).

INSTRUCTIONS: All items requiring attachments are marked with squares throughout these instructions.

The first page of the application form should be the first page of the application package. Leave the site number and claim number blank.

Please type or print legibly.

Complete the site name and address, as defined above.

The dollar amount requested **must** be completed (no references to another page).

The release date and spill number (as assigned by the DEP Emergency Response Unit) **must** be completed (no references to another page).

- Attach a copy of the DEP Emergency Incident Report (i.e., spill form).

The Certification of Accuracy **must** be signed by both the applicant and preparer, unless they are the same person. An applicant **cannot** designate another person or entity to certify the accuracy of the information submitted in the application. Please note that false statements in the application may be punishable as a criminal offense. If there is more than one applicant, please attach additional certifications, as needed (may be additional copies of page 1).

A. General Information:

Fill in the applicant name and address, payee name address, and email, and the contact person name, address, and email, as they are defined above. **Clean-up Program staff will contact only the designated contact person.** If there is more than one applicant or payee, please insert an additional page with that information (may be additional copies of page 2 of the application form).

If the individual preparing the application is **not** the applicant, the preparer section must be completed. List the owner of the USTs, the operator of the USTs, and the property owner in the appropriate spaces.

Fill in the date (m/d/yy) that the Compliance Evaluation for the current USTs was performed (must be within 180 days of submitting the application). If there are no USTs dispensing petroleum at the site, check the box indicating that and, if it has not been done previously, prepare a Compliance Status Report (see page 5 of the Initial Application instructions).

- If the applicant is requesting DEP delegation to a Licensed Environmental Professional (LEP) for a site exceeding \$250,000 (optional), check this box and attach the request.
- Attach the completed Compliance Evaluation Form, if USTs are in use.
- Attach a Compliance Status Report, if USTs are no longer used at the site.

B. Environmental Information:

Answer all of the questions. Please note that in order to obtain reimbursement, the UST is required to have been subject of DEP UST notification prior to the occurrence of the release. The UST from which the release emanated must be in compliance with any final order or final judgment issued by a court regarding noncompliance with UST regulations.

Contamination from any source other than eligible UST systems is ineligible for reimbursement. If remediation costs for ineligible contamination appear on the invoices submitted, such costs should be segregated and any ineligible portions should not be requested. **If you have any questions, please contact Clean-up Program staff at (860) 424-3370.**

- If a potable well or other potential sources of pollution exist onsite, make sure they appear on at least one site map submitted with this application. Attach copies of the UST Facility Notification Form (EPHM-6) for the USTs that leaked. Also attach copies of any governmental actions (i.e., Administrative Orders, Consent Orders, civil or criminal penalties, etc.), if issued.

C. Neighboring Properties:

- If contamination from this release has affected other properties, attach a list of address(es) and the source(s) of potable water for those properties. Also list address(es) that are being or have been monitored for contamination, but at which no evidence of contamination was or has been found. If a third party attempted to or obtained compensation or reimbursement, attach a brief explanation including the source and the amount of compensation or reimbursement and a description of the damage.

D. Milestones:

Indicate which milestones have been achieved pursuant to CGS § 22a-449p for this submittal if DEP review and approval of milestones is sought. If a LEP will approve milestones, then attach a completed Licensed Environmental Professional Milestone and Approval Form and skip this section. The Commissioner or a LEP must approve each referenced report or plan.

E. Insurance and/or Other Sources of Reimbursement:

If the answer to question 1 is no, skip question 2 and answer question 3.

- If you answer "yes" to any of the questions, a brief explanation for each affirmative answer must be attached, including the amount received, expected or denied, the insurance policy number and the name of the insurance company issuing the policy, or other person from which payment or reimbursement is expected, received, or available.

If reimbursement or payment is received from any source other than the Clean-up Program for amounts requested or awarded from the Clean-up Program, the applicant must notify the UST Petroleum Clean-up Review Board (Review Board) in writing and repay the Clean-up Program within thirty (30) days of receipt of reimbursement or payment. Failure to do so may result in legal action.

F. Attachments: (in sequential order as follows Insert index tabs before boldface items listed below.)

- Licensed Environmental Professional Milestone and Approval Form, if a LEP is approving milestones for this claim**
- Compliance Evaluation Form (for USTs currently in use at the site) or a Compliance Status Report for the USTs that leaked (if USTs no longer in use at the site - See additional description below)**
- A timeline highlighting a detailed chronology of major events associated with the clean-up of this release. Events should include, but not be limited to, the following:**
 1. UST(s) installation
 2. Date and method of discovery of the release
 3. Date of release notice to the DEP, and if applicable, notice to the Review Board of third party claims against responsible party
 4. Removal/abandonment of UST(s)
 5. Soil removal
 6. Sampling dates
 7. Achievement of milestone(s)
- DEP Emergency Incident Report (i.e., spill form)
- Copy of UST Facility Notification Form (EPHM-6)
- Notices to the Review Board of third party claims against the responsible party
- List of neighboring property address(es) affected by the release and their drinking water source(s)
- Copies of any governmental actions
- A brief explanation of any insurance/reimbursement payment received, expected, or denied
- Copies of all reports in chronological order (if not previously submitted to DEP).**
- Map(s) of the site showing the location of the UST(s) that leaked, the location of any new UST(s), limits of the excavation of contaminated soil, location of the remediation system and associated piping, monitoring wells, heating oil USTs, aboveground storage tank(s), oil water separator, parts washer/cleaner, former drywells, former bay drains, hydraulic lifts, potable well, and septic system if applicable. Such maps could be included in the reports.
- Invoice Summary Form and invoices in chronological order**

If a responsible party is requesting costs associated with a third party:

- Certifications from licensed professionals substantiating claims for bodily injury, property damage, and/or damage to natural resources, if applicable
- Evidence the claim was finally adjudicated or settled with prior written approval of the Board
- Copy of the final adjudication or settlement agreement and associated documents demonstrating the connection between the contamination and bodily injury, property damage, and/or damage to natural resources.

G. Validation of Costs:

1. Provide information that demonstrate costs incurred were the result of a release or suspected release from an UST for which the responsible party was or would have been required to

demonstrate financial responsibility under 40 CFR 280.90 et seq. Such information shall include work product (i.e., reports, sample analyses, correspondence, etc.) within the technical portion of the application.

2. Description of the process used to obtain three (3) written bids for the eligible services rendered after November 26, 1991 which exceed \$5,000.00 in cost. Copies of those bids on company letterhead and reason(s) for selection of other than the lowest bid **must** be specified. Eligible bids may be obtained on a "lump sum" basis provided the lump sums provide sufficient descriptions of the service and materials rendered. Copies of the bid specifications, unit cost contracts, and/or master bid contracts **must** be submitted with the application.
3. Descriptions of services rendered, dates of services rendered, and unit and/or lump sum costs for each service, site name and location **must** be submitted with each invoice with the application.
4. Legible copies of all invoices for which reimbursement is requested **must** be submitted. Purchase orders or statements cannot be accepted in lieu of invoices.
5. Documentation that all costs for which reimbursement is requested were incurred (i.e., work performed) on or after October 1, 2004.
6. All credit invoices associated with costs for which reimbursement is requested **must** be submitted (identify to which invoice it pertains).
7. (a) Submit the Invoice Summary Form; (b) Arrange invoices in chronological order (starting with the oldest), and (c) Submit **only** one copy of each invoice, including all backup and supporting documentation (such as subcontractor's invoices) and separated from the next invoice by a color page or tab. If any costs listed on the invoices are not requested, those costs **must** be designated on the invoice and on the Invoice Summary Form.
8. Responsible parties are eligible for up to \$5,000 in reasonable attorneys' fees or other costs of legal representation associated with responding to an eligible release, for example, drafting access agreements to investigate neighboring sites. Third parties are eligible for up to \$10,000 for reasonable attorneys' fees or other costs of legal representation primarily associated with the eligible release (does not include secondary costs, such as costs associated with obtaining a loan).

Ineligible Costs:

Costs of services not incurred due to an UST release or suspected release should not be submitted. Examples of ineligible costs include, but are not limited to, the following:

1. Costs of removal of UST systems already used to their usage deadlines or removed for **any** reason other than emergency mitigation.
2. Costs of installation of new UST systems, UST facility components, and costs associated with such installations.
3. Costs of landscaping.
4. Costs of paving not associated with installation of a remedial system.
5. Costs of new pumps and pump islands.
6. Costs incurred prior to the release or suspected release being reported to DEP.
7. Cost incurred due to UST regulatory requirements, such as monitoring wells in the UST grave and UST closure sampling and reports.
8. Costs associated with transfers of property, anticipated transfers of property, and Transfer Act CGS §§ 22a-134a et seq.
9. Meals and lodging, unless the necessity of lodging to the remediation program is demonstrated in

the application.

10. Costs associated with remediation of contamination released from a source other than an eligible UST (e.g., drywells, heating fuel USTs, USTs containing hazardous wastes or PCBs.)
11. Surcharges above the standards prevalent in the relevant market.
12. Stage II vapor recovery installation costs.
13. Nondescript costs or costs which are not adequately itemized or not clearly shown to be related to the clean-up (e.g., lump sum services generically described as "plumbing," "electrical work," etc. which could include costs associated with the clean-up, new UST installations, and/or renovating a service station restroom.).
14. Attorneys' fees or other costs of legal representation incurred or paid by responsible parties that exceed \$5,000 or attorneys' fees or other costs of legal representation incurred or paid by third parties that exceed \$10,000.
15. Claims for property diminution or interest, and/or responsible party attorneys' fees or other costs of legal representation associated with defense of claims brought by another person,.
16. Costs of defending against any governmental actions, including Notices of Violation and/or Administrative Orders.

H. Compliance Status Report:

ONLY for responsible party applications for sites on which there is no UST system dispensing petroleum. The compliance status report should cover the three years immediately prior to the date of the release or suspected release. This report should address areas of noncompliance and whether that noncompliance was a proximate cause of the release. Include an evaluation of compliance with the following requirements:

Design, Construction, Installation, & Operation [Regulations of Connecticut State Agencies (RCSA) §§ 22a-449(d)-1(e)(1); 22a-449(d)-102]

Provide documentation that all UST(s) were designed, constructed, installed, and operated in accordance with all applicable requirements or, if they were not, a description of the lack of compliance with these regulations. Documentation should include the manufacturer's checklist, warranties, cathodic protection system test results (if applicable), etc.

Release Detection [RCSA §§ 22a-449(d)-1(g)(1), (2), (3); 22a-449(d)-104]

Provide documentation of compliance with release detection requirements, including all required inventory records for the three months prior to the discovery of the release, all tank test results, water level readings, monitor or vapor sniffer well testing data, and/or interstitial monitoring data.

Removal from Service, Removal, Abandonment, Upgrade, & Transfer of Location [RCSA §§ 22a-449(d)-1(e)(2), (3), (4); 22a-449(d)-1(k); 22a-449(d)-110 & 112]

Provide documentation demonstrating whether or not all UST(s) on-site were removed from service, removed, abandoned-in-place, or modified to meet standards of new UST(s) by the applicable deadline. If the UST location has been changed, include documentation of prior permission of the Commissioner.

Out-of-Service UST Systems and Closure [RCSA §§ 22a-449(d)-1(k); 22a-449(d)-107]

Submit a copy of the required closure report for all UST systems removed or abandoned after December 23, 1988. If any UST systems had been abandoned or taken out-of-service, document compliance with the National Fire Protection Association (NFPA) Code 30 Appendix B and applicable UST regulations.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT UST PETROLEUM CLEAN-UP PROGRAM STAFF AT (860) 424-3370.