



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
Hartford, CT 06106-5127
www.ct.gov/dep
(860) 424-3370

Third Party Application Instructions

Pursuant to §§ 22a-449a through 22a-449p, as amended, of the Connecticut General Statutes (CGS), follow these instructions to complete a third party 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 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 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 should be the first page of the application package.

Please type or print legibly.

Provide the site number and claim number, if known.

Fill in the site name of the **location of the release** and address.

Fill in the third party street address (the location of the applicant's property or, in cases of bodily injury, the location at which the injury occurred such as the applicant's residence or workplace).

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

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, 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, fill in the preparer section. Identify the potable water source for the applicant's property.

B. Insurance and/or Other Sources of Reimbursement:

Indicate whether reimbursement or payment from a source other than the Clean-up Program has been received, denied, is expected, or available.

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 or a reference to previously submitted information 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 reimbursement or payment is expected or received.
- 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.

C. Third Party Status:

Indicate if the Review Board found the applicant to be a third party for an application filed before July 1, 2005.

Indicate whether the applicant has ever owned, operated, leased, used, or had an interest in the UST system(s) from which the release emanated or the real property on which the UST system(s) were located.

Also indicate whether the applicant has any affiliation with any person that ever owned, operated, leased, used, or had any interest at any time in the UST system(s) from which the release emanated or the real property on which the UST system(s) are/were located. Such an affiliation may be through a direct or indirect familial relationship or through any contractual, corporate, or financial relationship.

TO BE CONSIDERED A THIRD PARTY:

- ◆ THE REVIEW BOARD MUST HAVE FOUND THE APPLICANT TO BE A THIRD PARTY FOR AN APPLICATION SUBMITTED BEFORE JULY 1, 2005, OR
- ◆ QUESTIONS 2 THROUGH 4 ON THE THIRD PARTY APPLICATION MUST BE ANSWERED NO.

IF NEITHER OF THESE CRITERIA IS SATISFIED, THE APPLICANT MUST FILE A RESPONSIBLE PARTY APPLICATION ON EITHER AN INITIAL OR SUPPLEMENTAL APPLICATION FORM. IF

YOU HAVE ANY QUESTIONS REGARDING THIS DETERMINATION, PLEASE CONTACT THE CLEAN-UP PROGRAM STAFF AT (860) 424-3370.

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

- A time line highlighting a detailed chronology of major events associated with this application. Events may include, but not be limited to, the following:**
 1. Date and method of discovery of the release affecting the applicant
 2. Method and provision of potable water, if applicable
 3. Date and location of sample collection performed for the applicant
 4. Dates and descriptions of any legal actions taken by or against the applicant regarding the subject release or impact to the applicant's site
- Copies of any reports (in chronological order), if not previously submitted to DEP**
- A brief explanation of any insurance/reimbursement payment received, expected, denied, or available to the applicant
- Map(s) of the site showing the location of the UST(s) that leaked, and the location of the applicant's property, residence and/or potable well. Such maps may be included in the reports.
- Description of the nature of the claim for bodily injury, property damage or damage to natural resources and date on which the injury or damage was discovered
- Certifications from licensed professionals substantiating claims for bodily injury, property damage and damage to natural resources, including, but not limited to, statements from licensed physicians, claims adjusters and attorneys
- Evidence that the person has made reasonable attempts to or has provided written notice of its claim to the responsible party as required pursuant to CGS § 22a-449f(a) and that the responsible party has after sixty (60) days or other agreed time from such notice not applied to the Review Board for payment or reimbursement of this claim, if not previously submitted.
- Evidence that a responsible party was or would have been required to demonstrate financial responsibility under 40 CFR Part 280.90 et seq. as said regulation was published in the Federal Register of October 28, 1988, for the UST from which the release emanated (i.e., one containing motor fuel, waste oil without hazardous wastes, or heating oil for resale)
- Completed Invoice Summary Form and invoices in chronological order**

E. 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 the 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 the defense of claims brought by another person.
16. Costs of defending against any governmental actions, including Notices of Violation and/or Administrative Orders.

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