

# **Underground Storage Tank Petroleum Clean-up Account Investigation and Remediation Milestones**

## **Purpose**

This fact sheet answers general questions and provides basic information on certain provisions of the Underground Storage Tank Petroleum Clean-up Account (“Clean-up Account”) concerning milestones for investigation and remediation of a release. This fact sheet summarizes the requirements applicable to a responsible party<sup>1</sup> applicant for meeting and documenting the milestones found in Connecticut General Statutes (“ C.G.S.”) Section 22a-449p. The milestone approach provides applicants with an opportunity to submit reimbursement applications while maintaining an incentive to conduct remediation in accordance with the DEP Remedial Standard Regulations.

To obtain reimbursement from the account for any eligible cost paid or incurred a responsible party applicant must demonstrate with its application that one of the following milestones has been completed:

- 1) Release response report prepared by an environmental professional, as defined in C.G.S. Section 22a-133v, has been submitted to the Commissioner of Environmental Protection,
- 2) Report describing interim remedial actions taken,
- 3) An investigation report and remedial action plan,
- 4) Soil remedial action report,
- 5) Groundwater remedial action (initial) progress report,
- 6) Annual (continuing) groundwater remedial action progress report (limit of 4 responsible party applications per year for cost associated with this milestone for the release), and
- 7) Final remedial action report

Upon completion of any of the above milestones, the applicant may submit eligible costs paid or incurred up to the date of the submitted application. In addition to the statutory deadlines for submitting costs, the applicant has no later than one year after the completion of all or substantially all of the work or

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<sup>1</sup> Please refer to the definition of “responsible party” listed in C.G.S. Section 22a-449a, as amended.

activities necessary to prepare the plan or report required by the milestone to submit a reimbursement application for its costs<sup>2</sup>. Applicants shall include with the milestone report or plan the date of completion of all or substantially all of the work or activities necessary to prepare the report or plan. Such report or plan shall be promptly completed upon the completion of the work or activities necessary to prepare the report or plan. To submit a subsequent reimbursement application, the applicant must demonstrate that it has completed another milestone and may submit with its application eligible costs paid or incurred up to the date of that application. An applicant cannot submit with the subsequent application costs: 1) that have been reimbursed, 2) that have been previously submitted to the Clean-up Account, or 3) are beyond the one-year deadline for previously completed milestones<sup>3</sup>.

## **Milestones**

Applications submitted on or after October 1, 2005 are required to include a demonstration that a milestone has been completed as specified in CGS Section 22a-449p<sup>4</sup>. Staff will review applications received on or after October 1, 2005 to ensure that a completed milestone as described by CGS Section 22a-449p is included with the application. Staff will review applications received on or after July 1, 2007 to ensure that a completed milestone as described below is demonstrated and included with the application:

### **Milestone # (1) Release Response Report**

A release response report prepared by an environmental professional<sup>5</sup>, as defined in section 22a-133v of the general statutes, has been submitted to the Commissioner of Environmental Protection which report describes:

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<sup>2</sup> For initial applications received by the Board on or prior to July 1, 2005 supplemental applications are not allowed after October 1, 2009. For initial applications received by the Board after July 1, 2005 supplemental applications are not allowed after five years from the date of the initial application [C.G.S. Section 22a-449c(d)]. The provisions do not apply to annual groundwater remedial actions including the preparation of a groundwater remedial action progress report (milestone # 6).

<sup>3</sup> The Account prohibits double recovery of the same costs.

<sup>4</sup> Applicants must follow the application instructions concerning the milestone demonstration. Applicants are also required to submit with their application a completed Licensed Environmental Professional (LEP) Milestone and Approval form if they are relying on the LEP approval of the milestone report. The form may be obtained as a word form or PDF file at <http://www.ct.gov/dep/cwp/view.asp?a=2717&q=325322> and LEPs are authorized to use their professional seal on such form pursuant to C.G.S. Section 22a-449f(b)(3) regardless of such prohibition set forth in R.C.S.A. Section 22a-113v-5(b).

<sup>5</sup> "Environmental professional" means a person who is qualified by reason of his knowledge to engage in activities associated with the investigation and remediation of pollution and sources of pollution including the rendering to clients professional services in connection with such activities.

- (A) All initial response actions taken that are necessary to prevent an on-going release and to mitigate an explosion, fire or other safety hazard resulting from the release [including, but not limited to, copy of the release report made to the DEP, how the release was discovered, listing of the UST system component(s) that failed, and measures or actions taken to prevent an on-going release],
- (B) the results of an initial site investigation that determines the presence and extent of free product from the release, the potential for or existence of groundwater pollution from the release which threatens the quality of drinking water well or wells, and whether the release has resulted in soil vapors or indoor air that threatens public health,
- (C) all interim actions taken and proposed to remove such free product to the extent technically practicable, to provide potable water to any person whose drinking water has been polluted by a substance from the release which is above the groundwater protection criteria or above a level determined by the Commissioner of Public Health to be an unacceptable risk of injury to the health or safety of persons using such groundwater as a public or private source of water for drinking or other personal or domestic uses, whichever is more stringent, and to mitigate any risk<sup>6</sup> to public health from polluted soil vapor or indoor air resulting from the release, and
- (D) the date of completion of all or substantially all of the work or activities necessary to prepare the report.

**Milestone # (2)**

An interim remedial action report approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Environmental Protection or an interim remedial action report has been approved, in writing, by the commissioner.

Such interim remedial action report shall describe in detail all interim remedial action taken to:

- (A) Remove free product to the maximum extent technically practicable (including, but not limited to, quantity of product recovered, location and quantity of remaining product),
- (B) ensure that all persons whose drinking water was polluted by the release have been provided potable water (including, but not limited to, names and addresses of impacted properties, details of potable water provided and/or treatment systems for the impacted properties),

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<sup>6</sup> Includes potential risk

- (C) ensure that soil vapors which pose a risk<sup>7</sup> to public health are prevented from migrating into any overlying buildings, and
- (D) the date of completion of all or substantially all of the work or activities necessary to prepare the report.

### **Milestone # (3)**

An investigation report and remedial action plan approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Environmental Protection, or an investigation report and remedial action plan has been approved, in writing, by the commissioner.

Such investigation report and remedial action plan shall include:

- (A) A detailed description of an investigation which determines the existing and potential extent and degree of any free product; soil, surface water, soil vapor and groundwater pollution<sup>8</sup>; on and off-site, resulting from the release,
- (B) a detailed description of all actions proposed to remediate soil<sup>9</sup>, surface water, air or groundwater polluted by the release in accordance with the regulations adopted pursuant to section 22a-133k of the general statutes, such detailed description shall include, if performed, pilot test information or other remediation feasibility data pertinent to the decision as to what remediation alternative will likely work best for the subject site,
- (C) estimate of costs for the various remediation alternatives,
- (D) a schedule for implementing and completing the remedial action plan, and
- (E) the date of completion of all or substantially all of the work or activities necessary to prepare the report and plan.

### **Milestone # (4)**

A soil remedial action report approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Environmental Protection, or a soil remedial action report has been approved, in writing, by the commissioner.

Such soil remedial action report shall include:

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<sup>7</sup> Includes potential risk

<sup>8</sup> Please also review DEP's Site Characterization Guidance Document for developing and completing such investigation.

<sup>9</sup> Includes soil vapor

- (A) A detailed description of the extent of soil pollution resulting from the release, and
- (B) all remedial actions taken to abate such soil pollution,
- (C) all documentation that demonstrates that such soil pollution has been remediated in accordance with the regulations adopted pursuant to section 22a-133k of the general statutes, and
- (D) the date of completion of all or substantially all of the work or activities necessary to prepare the report.

**Milestone # (5)**

A groundwater remedial action progress report approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Environmental Protection or a groundwater remedial action progress report has been approved, in writing, by the commissioner. Such report may only be submitted after all construction necessary to implement the approved groundwater remedial actions have been completed and that the groundwater remedial actions have been operated and monitored for one year.

Such report shall include:

- (A) A detailed description of the remedial actions,
- (B) the results of groundwater or any other monitoring conducted, an analysis of whether the remedial actions are effective (including, but not limited to, a table that includes all historical monitoring data),
- (C) a proposal for any changes in the groundwater remedial actions and monitoring that may be necessary to achieve compliance with the regulations adopted pursuant to section 22a-133k of the general statutes,
- (D) a schedule to implement and complete any proposed changes in the groundwater remedial actions, and
- (E) the date of completion of all or substantially all of the work or activities necessary to prepare the report.

**Milestone # (6)**

An annual groundwater remedial action progress report approved, in writing, by a licensed environmental professional has been submitted to the Commissioner of Environmental Protection or approved, in writing, by the commissioner. A responsible party of section 22a-449f of the general statutes, as amended by this act, may submit to the board up to, but not more than, four separate applications or requests for payment or reimbursement in a calendar year regarding costs, expenses or obligations paid or incurred concerning annual groundwater monitoring or compliance with this subdivision. If applications are submitted quarterly, the monitoring data is required to be submitted with each application

and the annual groundwater remedial action progress report is required to be submitted with the fourth-quarterly application.

Such groundwater remedial action progress report shall include:

- (A) a detailed description of the remedial actions,
- (B) the results of groundwater or any other monitoring conducted for the year covered by the report (including, but not limited to, an updated table that includes all historical monitoring data),
- (C) an analysis of whether the remedial actions are effective,
- (D) a proposal for any changes in the groundwater remedial actions and monitoring that may be necessary to achieve compliance with the regulations adopted pursuant to section 22a-133k of the general statutes,
- (E) a schedule to implement and complete and proposed changes in the groundwater remedial actions,
- (F) the status of groundwater monitoring concerning the regulations adopted pursuant to section 22a-133k of the general statutes, and
- (G) the date of completion of all or substantially all of the work or activities necessary to prepare the report.

#### **Milestone # (7)**

A final remedial action report approved by a licensed environmental professional has been submitted to the Commissioner of Environmental Protection, or a final remedial action report has been approved, in writing, by the commissioner that documents:

- (A) that the release has been investigated in accordance with prevailing standards and guidelines, and
- (B) that the soil, surface water, groundwater and air polluted by the release has been remediated in accordance with the regulations adopted pursuant to section 22a-133k of the general statutes,
- (C) that the ground water monitoring has been completed in accordance with the regulations adopted pursuant to section 22a-133k of the general statutes, and
- (D) the date of completion of all or substantially all of the work or activities necessary to prepare the report.

#### **Discussion**

Work associated with any milestone must be completed in accordance with the regulations adopted pursuant to section 22a-133k of the general statutes. Milestones will commonly be completed in numeric order, but doing so is not required. Activities associated with different milestones can be

performed together and, upon completing any milestone, the applicant may submit any eligible costs as previously discussed on page # 2, even those associated with milestones not yet completed. Applications including such costs, however, must include documentation of the work, such as analytic results, field notes, manifests or interim reports.

An applicant cannot submit a subsequent application until completing an additional milestone, with the sole exception being the additional applications authorized for work associated with the annual groundwater remedial action progress report. Although that report is the only milestone that mentions the possibility of being completed more than once, other milestones also can be completed more than once and be eligible for reimbursement provided they are completed within the statutory deadlines<sup>10</sup>. However, if any other milestone is completed more than once the applicant or their LEP must justify the reason in writing before the report can be approved.

The milestone requirement for reimbursement does not stay any legal obligations on the applicant to implement and complete the release investigation and remediation. The Connecticut Underground Storage Tank Regulations have specific deadlines for reporting, investigating and confirming releases and for beginning corrective action. Please review the Regulations of Connecticut State Agencies (“R.C.S.A.”) Sections 22a-449 (d) –105 and 106 for the applicable time periods. If a release is suspected or if contaminated soil, contaminated ground water, or free product as a liquid or vapor is observed on site or is detected by sample analysis, the DEP must be immediately notified at (860) 424-3338.

The First Milestone (release response report) is expected to be completed within forty-five days after confirmation of the release and the Second Milestone (report describing interim remedial actions taken) is expected to be completed within ninety days after confirmation of the release.

For further information please contact the Underground Storage Tank Petroleum Clean-up Account at (860) 424-3370 or write to:

UST Petroleum Clean-up Account  
Remediation Division  
Bureau of Water Protection and Land Reuse  
79 Elm Street  
Hartford, Connecticut 06106

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<sup>10</sup> The Conceptual Site Model (“CSM”) approach to site investigation and remediation work is an iterative approach that may require certain milestones to be completed more than once.

*This overview is designed to answer general questions and provide basic information. You should refer to the appropriate statutes and regulations for specific language. It is your responsibility to comply with all applicable laws. The information contained in this fact sheet is intended only to acquaint you with the milestone provisions in C.G.S. Section 22a-449p. In the event of inconsistency between this document and the statutory language, the language in C.G.S. Section 22a-449p controls.*

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