



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

July 6, 2011

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

Dear Ms. Wingfield:

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

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

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

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

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

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

Toll Free • 1-888-372-7341

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

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

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

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

Sincerely,



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

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