

**UNDERGROUND STORAGE TANK PETROLEUM PRODUCT CLEANUP FUND
POLICY FOR DIRECT PAYMENT PROGRAM
MASSACHUSETTS GENERAL LAWS CHAPTER 21J AND 503 CMR 2.08**

TABLE OF CONTENTS

1.0 Purpose and Scope	1
2.0 Definitions.....	1
3.0 General Provisions.....	3
4.0 Eligibility	5
5.0 Procedures.....	5
6.0 Limitations on Reimbursements.....	6
7.0 Advanced Payments and Contract Guarantees.....	7

1.0 PURPOSE AND SCOPE

503 CMR 2.08 of the Underground Storage Tank Petroleum Product Cleanup Fund Administrative Review Board regulations allows an Owner of a UST System to authorize another to remediate a Site and file Claims for Reimbursement directly to the Fund.

The purpose of this policy is to allow otherwise Eligible Claimants the opportunity to participate in the Underground Storage Tank Petroleum Product Cleanup Fund. This policy is intended to describe the process for filing a Direct Payment Claim for Reimbursement. This policy does not apply to Claims for Damage to Natural Resources and or Third Party Claims as those terms are defined in 503 CMR 3.00 the Underground Storage Tank Petroleum Product Cleanup Fund Administrative Review Board regulations.

2.0 DEFINITIONS

For the purposes of this policy, the following terms shall have the following meanings assigned to them:

Authorized Claimant a Person acting on behalf of an Owner as described in 503 CMR 2.02 or on behalf of an successor in ownership described in 503 CMR 2.08 (2)(b) pursuant to a contract who takes a Response Action and who submits a Direct Payment Claim for Reimbursement pursuant to this policy.

Board, the Underground Storage Tank Petroleum Product Cleanup Fund Administrative Review Board.

Certification, the Board approved form signed by a the Owner of the UST System, Authorized Claimant, Financial Agent and Project Manager/LSP attesting to the accuracy and completeness of the facts contained in a Direct Payment Claim for Reimbursement submittal to the Board.

Department of Environmental Protection or DEP , the Department of Environmental Protection of the Commonwealth of Massachusetts.

Department of Revenue or DOR , the Department of Revenue of the Commonwealth of Massachusetts.

Direct Payment Claim for Reimbursement or DPCR , a Claim for Reimbursement submitted according to the Underground Storage Tank Petroleum Product Cleanup Fund Policy for direct payment.

Facility, a real property address in Massachusetts at which one or more Underground Storage Tanks are located and used to store gasoline or other fractions of Petroleum Products.

Fund, the Underground Storage Tank Petroleum Product Cleanup Fund.

Massachusetts Contingency Plan or MCP, the regulation governing remediation of contaminated Sites throughout the Commonwealth of Massachusetts, established pursuant to M.G.L. c. 310 CMR 40.0000.

Owner, any person having legal ownership of the UST System.

Person, any agency or political subdivision of the Commonwealth, public or private corporation or authority, partnership, association, or other entity, and any officer, employee, or agent of such person, and any group of persons or a natural person.

Petroleum Product ,a product that is obtained from distilling and processing crude oil and that is capable of being used as a motor fuel for the propulsion of a motor vehicle, Boat or aircraft and was delivered to the Facility for such purpose. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, a Petroleum Product destined for use in chemical manufacturing or feedstock of that manufacturing, waste oil, fuel oil or any fuel used for heating purposes.

Political Subdivisions, cities, towns, districts, counties, commission including bodies politic and corporate. For the purposes of 503 CMR 2.00 Boards and Authorities of the Federal Government and the Commonwealth of Massachusetts shall be considered Political Subdivisions.

Release, any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposal into the environment of a Petroleum Product from any part of an UST System, excluding emissions from the exhaust of an engine, which has been reported to DEP and assigned a DEP tracking number. A Release also includes a spill or overfill of Petroleum Product that occurs while being delivered into or removed from an UST System, provided that the transferring equipment was connected to the UST System and the Petroleum Product released made contact with a component of the UST System before the Release occurred.

Response Action, a cost-effective, reasonable and necessary action performed after

the Release notification made to the DEP pursuant to M.G.L. c. 21E §7, and 310 CMR 40.0000 with regard to the existence or extent of contamination of groundwater, surface water or soils on or from a Site by Petroleum Products, including:

- (a) Site Assessment, including investigations, monitoring, testing, and other information-gathering activities to identify;
 - 1. The source, nature, and extent of a Release;
 - 2. The extent of danger to the health, safety, public welfare, and the environment; and
 - 3. Studies, services, and investigations to plan, manage, and direct Response Actions;
- (b) Containment, including actions taken in response to a Release to prevent or minimize such Release so that it does not migrate or otherwise cause or threaten substantial danger to present or future health, safety, public welfare, or the environment. The term shall also include necessary and required security measures, including, without limitation, the building of fences for the purpose of limiting and restricting access to a location where there has been a Release; and
- (c) Removal, including the cleanup or removal of Released Petroleum Product from the environment, the disposal of removed Petroleum Product, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the health, safety, public welfare, or environment, which may result from the Release.

Underground Storage Tank or UST, any one (1) or combination of tanks, including underground pipes connected thereto, used to contain an accumulation of Petroleum Product and the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. For the purposes of these regulations, the terms Underground Storage Tank and Underground Storage Tank System shall have the same meaning.

Underground Storage Tank System or UST System, an Underground Storage Tank and its associated ancillary equipment and containment system at a Facility. Associated ancillary equipment includes all piping and equipment connected to the UST or its containment system, including, without limitation nozzles, hoses, pumps, piping, vents, transport fittings at the point of connection and vapor recovery piping and equipment. For the purposes of these regulations, the terms Underground Storage Tank and Underground Storage Tank System shall have the same meaning. In addition, for the purposes of this policy and 503 CMR 2.00, a UST system does not include a fueling system that is designed for or is otherwise used primarily to fuel aircraft.

3.0 GENERAL PROVISIONS

(1) Authority. the Board pursuant to the authority granted by M.G.L. c. 21J, as amended issues the Policy for Direct Payment. This policy should be read together with M.G.L. c. 21J, as amended and 503 CMR 2.00 which have important substantive requirements not repeated in this policy.

(2) Severability. The provisions of this policy are severable, and if any provision hereof or the application thereof to any Person or circumstance is held invalid, such a

determination shall not affect other provisions hereof or applications thereof which can be given effect without the invalid provision or application.

(3) Effective Date. This policy shall take effect as of **April 1, 2009**.

(4) Computation of Time. For the purpose of administering this policy, any time period prescribed or referred to in the policy or in any determination issued pursuant to 503 CMR 2.00 shall begin with the first day following the act which initiates the running of the time period, and shall include every calendar day, including the last day of the time period so computed. If the last day is a Saturday, Sunday, legal holiday, or any other day in which the offices of the Board are closed, the deadline shall run until the end of the next business day. If the time period prescribed or referred to is less than seven days, only days when the offices of the Board are open shall be included in the computation.

(5) Accurate and Timely Submittals to the Board.

(A) No Person shall make any false, inaccurate, or misleading oral or written statement in any certification, application, record, report, plan, or statement which that Person submits, or is required to submit, to the Board pursuant to these regulations or to any order issued by the Board.

(B) Any certification, application, record, report, plan, or statement which any Person is required to submit to the Board shall be submitted within the time period prescribed in M.G.L. c. 21J, 503 CMR 2.00, or any order issued by the Board, unless otherwise specified by the Board.

(C) Timely receipt of documents shall be evidenced by a date stamp of the Board. The date evidenced by the date stamp shall control unless the Claimant contests the date by presenting proof of filing or submission by a receipt from Registered or Certified postage prepaid United States mail, properly addressed, or by a receipt from a regionally-recognized overnight carrier. Filings or submissions may also be personally delivered to the addressee with an additional, return copy to be date stamped for proof of filing or submission.

(D) For the purposes of 503 CMR 2.10(1)(b)(1), which states "All Claims must be submitted no later than 365 days from the date of payment.", all direct costs incurred by the Direct Pay consultant or contractor must be submitted no later than 365 days from the date of service.

(6) Accurate and Complete Record Keeping.

(A) An Applicant shall keep all records relating to any submittal application for reimbursement for at least seven (7) years from the date on which the submittal was awarded or otherwise disposed of by the Board. Upon the written request of the Board, these records will be made available to the Board, or a designated

agent of the Board, at any reasonable place within the state designated by the Board.

(B) No Person shall make any false or misleading statement in any record, report, plan, file, log, or register which that person keeps, or is required to keep, pursuant to these regulations or to any order of the Board. Any application, record, report, plan, file, log, or register which any person is required to keep shall be filled out completely and otherwise kept in compliance with these regulations and/or with any order issued by the Board.

(7) Certification, Any Person submitting an Application for Eligibility or an Application for Reimbursement pursuant to this policy or otherwise specifically required by the Board, shall make the following Certification in conjunction therewith:

“I certify under the penalty of perjury that to the best of my knowledge and belief the statements made and information given herein are true as of the date hereof. I further certify that this submission is in compliance with M.G.L. c 21J and 503 CMR 2.00. I hereby consent to all audits of payment and necessary inspections made to verify the accuracy of any submission to the Board and made pursuant to law and incidental to the issuance of licenses, registrations, permits, certificates and the operation of an UST System. I am aware that there are significant penalties for submitting false information, including possible fines, civil penalties and imprisonment. I further certify that I am authorized to execute this form.” Further, on the Application For Reimbursement, the following shall be added to the above:

“I agree to return any erroneous payment to the Fund within ten days of either the receipt of the erroneous payment or the receipt of a written notice from the Board that an erroneous payment was made.”

(a) The certification required by this policy must be made by one of the following:

1. If a corporation, by an officer of the corporation or an individual designated by a Power of Attorney to act on behalf of the corporation for purposes of 503 CMR 2.00;
2. If a partnership, a sole proprietorship, or trust, by a general partner, the sole proprietor, or a trustee, respectively; or
3. If any other entity, by a principal or an individual designated by a Power of Attorney to act on behalf of the principal for purposes of 503 CMR 2.00.

(8) Reproduction of Forms. All applications and other forms may be reproduced or computer generated provided that copies are reproduced identically.

(9) Enforcement Any Person who violates any provision of M.G.L. c. 21J, or 503 CMR 2.00, shall be subject to the penalties provided under M.G.L. c. 21J, § 13, including fines, imprisonment or both, and may be barred from participation in any current or future Claim.

4.0 ELIGIBILITY

To authorize a Direct Payment Claim for Reimbursement the Owner must be:

- 1) An Owner of a UST or UST System;
- 2) The Owner of a UST or UST System or Attorney-in-fact shall not be the same entity as the Direct Pay Claimant.
- 3) The UST or UST system shall be in Full Compliance with 503 CMR 2.00 and this policy, and
- 4) The submittal described herein shall be in the form prescribed by the Board.

5.0 PROCEDURES

Applications:

- (1) An eligible party shall submit applications for the direct payment program using the form supplied by the Board, entitled "Appendix 4-Application for Reimbursement". The application shall include a breakdown of the actual costs incurred for Response Actions performed at the Site. The breakdown shall be provided on the spreadsheet entitled "Appendix 4-Application for Reimbursement-Listing of Costs, Expenses and Obligations"
- (2) All costs shall be listed on consultants and/or contractors invoices.
- (3) The breakdown of all costs shall include a detailed description of the activity performed, the number of labor hours incurred to perform that activity, the hourly rate charged and the name and position title of the personnel performing the activity. All subcontractor cost shall be supported by an invoice issued by the subcontractor. All subcontractor costs shall be broken-down as described above.
NOTE: Unit costs are not acceptable.
- (4) If possible, all costs shall be assigned a task code. Task codes are located in the Board's reimbursement fee schedule entitled "Appendix 3-Reimbursement Fee Schedule Policy". All task codes shall be listed in the Appendix 4 spreadsheet and on each invoice.
- (5) All labor costs shall be supported with personnel timesheets and invoice backup.
- (6) All technical reports shall be provided to support report preparation task codes.
- (7) All Bills of Lading, hazardous waste manifest, disposal facility weight slips shall be provided to support costs to disposal of eligible contaminated soil and groundwater.
- (8) Chemical analysis reports shall be provided to support chemical analytical costs.
- (9) Any other documentation to verify that costs were incurred for the amount claimed to 21J.
- (10) Proof of Payments for costs incurred for Response Actions shall be demonstrated using the Board's Certification Form. A completed certification form shall be supplied with each application.

6.0 LIMITATIONS ON REIMBURSEMENTS

- (1) Reimbursements shall not exceed those set forth in 503 CMR 2.16 **limitations on reimbursements and deductible amounts** as amended,
- (2) This policy shall not apply to third party claims including natural resource damage claims.

7.0 ADVANCE PAYMENT AND CONTRACT GUARANTEES

- (1) No Reimbursement for a Response Action shall be made until the work has been performed.
- (2) Approval of an Application for Eligibility and or an Application for Reimbursement, pursuant to this policy, shall not be a guarantee or promise to pay by the Board on behalf of an Authorized Claimant to any third party.

**MASSACHUSETTS DEPARTMENT OF REVENUE UNDERGROUND STORAGE
TANK PROGRAM
DIRECT PAYMENT CLAIM FOR REIMBURSEMENT APPLICATION**

1. GENERAL INFORMATION

A) Items I-III describe and are hereafter referred to as the "Submittal".

- I. UST Eligible Release Number _____
- II. Submittal # _____
- III. Dollar Amount of this Submittal _____

B) Items IV-VI describe and are hereafter referred to as the "UST System".

- IV. UST Facility Name _____
- V. UST Facility Address _____
- VI. Facility Identification Number _____

C) Items VII-XI describe and are hereafter referred to as "Authorized Claimant".

- VII. Company Name/Contact _____
- VIII. Address _____
- IX. Telephone _____
- X. Business relationship of Authorized Claimant to Owner _____
- XI. Federal Identification Number _____

D) Items XII - XV describe the UST system Owner and are hereafter referred to as "Owner."

- XII. Owner Name _____
- XIII. Owner Address _____
- XIV. Owner Telephone _____
- XV. Federal Identification Number _____

2. CERTIFICATIONS FOR UST ELIGIBLE RELEASE # ____ SUBMITTAL # ____

CERTIFICATION OF OWNER OR ATTORNEY-IN-FACT

I certify to the best of my knowledge and belief that the costs presented in this submittal represent actual costs incurred in the performance of response actions at this Site during the period indicated on this Reimbursement submittal; that these costs have not been submitted as part of another Reimbursement submittal; that a release has occurred from an eligible underground storage tank system (UST) at this Site; that no charges are presented as part of this Reimbursement submittal that do not directly relate to the release of Petroleum Product at this Site; and that the costs incurred in excess of the applicable Massachusetts UST Fund Program deductible(s) are not eligible to be paid or reimbursed by or from any other source, including any contract of insurance. I understand that submission of a false statement, representation, or documentation to the Department of Revenue UST Fund Program or the Third Party Claims Administrator shall be subject to the penalties provided under M.G.L. c. 21J, § 13, including fines, imprisonment or both, and may result in barring from participation in any current or future Claim.

TANK OWNER/ATTORNEY-IN-FACT

Name: _____ Title: _____

Signature _____ Date: _____

Mailing address: _____

Federal I.D.# _____

Telephone:(_____)_____

SUBSCRIBED AND SWORN TO before me on this ____ day of _____, 20__, the undersigned Notary Public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name was signed on the preceding statement in my presence.



(reserved for Notary seal or stamp)

Signature of Notary Public

Typed, printed or stamped name of Notary Public

**CERTIFICATION OF LEAD CONSULTANT/ CONTRACTOR (LICENSE SITE
PROFESSIONAL/PROJECT MANAGER/PRINCIPAL)**

I certify that the costs presented in this submittal represent actual costs incurred in the performance of Response Actions at this Site during the period indicated on this Reimbursement submittal; that these costs have not been submitted as part of another Reimbursement submittal; that a release has occurred from an eligible underground storage tank system (UST) at this Site; that no charges are presented as part of this Reimbursement submittal that do not directly relate to the release of Petroleum Product at this Site; and that the costs incurred in excess of the applicable Massachusetts UST Fund Program deductible(s) are not eligible to be paid or reimbursed by or from any other source, including any contract of insurance. I hereby consent to all audits and Site inspections and agree to furnish the Fund with any documentation requested with respect to any payments made by the Fund including payroll records. I certify that I am authorized to execute this form. I understand that by signing this certification I acknowledge that I am subject to the provisions of M.G.L. chapter 21J and 503 CMR 2.00. I understand that submission of a false statement, representation, or documentation to the Department of Revenue UST Fund Program may result in the imposition of the penalties provided under M.G.L. c. 21J, § 13, including fines, imprisonment or both, and may result in the denial of participation in any current or future Claim for Reimbursement.

LICENSED SITE PROFESSIONAL / PROJECT MANAGER / PRINCIPAL

Name: _____ LSP License No.: _____

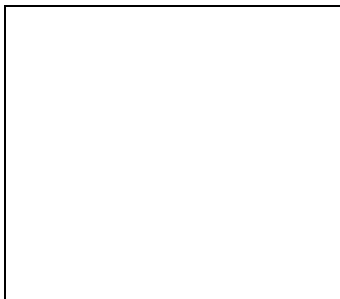
Title: _____

Signature _____ Date _____

Mailing address: _____

Telephone:(_____) _____

SUBSCRIBED AND SWORN TO before me on this ____ day of _____, 20__, the undersigned Notary Public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name was signed on the preceding statement in my presence.



(reserved for Notary seal or stamp)

Signature of Notary Public

Typed, printed or stamped name of Notary Public

CERTIFICATION OF CLAIMANT’S FINANCIAL OFFICER

I certify that the costs presented in this submittal represent actual costs incurred in the performance of response actions at this Site during the period indicated on this Reimbursement submittal; that these costs have not been submitted as part of another Reimbursement submittal; that no charges are presented as part of this Reimbursement submittal that do not directly relate to the release of Petroleum Product at this Site; and that the costs incurred in excess of the applicable Massachusetts UST Fund Program deductible(s) are not eligible to be paid or reimbursed by or from any other source, including any contract of insurance. I hereby consent to all audits and Site inspections and agree to furnish the Fund with any documentation requested with respect to any payments made by the Fund including employee payroll records. I certify that I am authorized to execute this form. I understand that by signing this certification I acknowledge that I am subject to the provisions of M.G.L. chapter 21J and 503 CMR 2.00. I understand that submission of a false statement, representation, or documentation to the Department of Revenue UST Fund Program may result in the imposition of the penalties provided under M.G.L. c. 21J, § 13, including fines, imprisonment or both, and may result in the denial of participation in any current or future Claim for Reimbursement.

FINANCIAL OFFICER

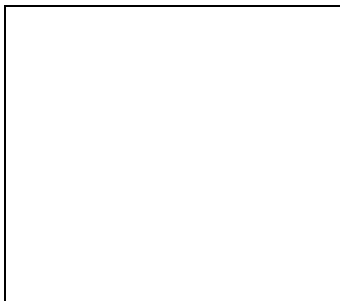
Name: _____ Title: _____

Signature _____ Date _____

Mailing address: _____

Telephone: (_____) _____

SUBSCRIBED AND SWORN TO before me on this ____ day of _____, 20__, the undersigned Notary Public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name was signed on the preceding statement in my presence.



(reserved for Notary seal or stamp)

Signature of Notary Public

Typed, printed or stamped name of Notary Public