

VETOES

(5) ANY PAYMENTS AND OBLIGATIONS OF THE DEPARTMENT UNDER THIS SUBSECTION ARE SUBJECT TO THE AVAILABILITY OF SUFFICIENT MONEYS IN THE UST FUND AND IN CONSIDERATION OF THE OBLIGATIONS OF THE DEPARTMENT TO RESPOND TO OTHER DISCHARGES OF OIL UNDER THIS SUBSECTION.

(6) (I) IN ORDER TO ENCOURAGE CORRECTIVE ACTIONS TO BE UNDERTAKEN BY PERSONS RESPONSIBLE FOR THE DISCHARGE, ANY COSTS INCURRED BY THE DEPARTMENT UNDER SUBSECTION (B)(2)(I) AND (III) OF THIS SECTION, INCLUDING COSTS OF PREVENTIVE AND ENFORCEMENT MEASURES, SHALL BE 100 PERCENT RECOVERABLE TO THE UST FUND FROM PERSONS RESPONSIBLE FOR THE DISCHARGE. IN ADDITION, COSTS SHALL BE 100 PERCENT RECOVERABLE IF THEY WERE PAID OUT OF THE FEDERAL LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(II) COSTS INCURRED BY THE DEPARTMENT FOR IMMEDIATE RESPONSE UNDER SUBSECTION (B)(2)(II) OF THIS SECTION SHALL ALSO BE RECOVERABLE. IF THE RESPONSIBLE PERSON COOPERATES WITH THE DEPARTMENT AND ASSUMES CONTROL OF THE CORRECTIVE ACTION DURING OR AFTER IMMEDIATE RESPONSE ACTIVITIES, RECOVERY SHALL BE LIMITED TO THE AMOUNT OF THE DEDUCTIBLE.

(III) THIS SECTION MAY NOT AFFECT THE LIABILITY OF ANY PERSON FOR FINES AND PENALTIES UNDER THIS TITLE.

(7) COSTS FOR REPLACEMENT OR RETROFITTING OF LEAKING TANKS AND ASSOCIATED PIPING ARE NOT ELIGIBLE FOR REIMBURSEMENT OR GUARANTEE TO A CONTRACTOR, AND THE DEPARTMENT MAY NOT INCUR THESE COSTS IN ACTIONS TAKEN UNDER PARAGRAPH--(2)--OF--THIS--SUBSECTION SUBSECTION (B)(2) OF THIS SECTION.

(8) THIRD PARTY COMPENSATION CLAIMS MAY BE REIMBURSED ONLY IF:

(I) NOTICE OF THE CLAIM AND ANY RESULTING LAW SUIT IS MADE TO THE DEPARTMENT CONSISTENT WITH REGULATIONS DEVELOPED BY THE DEPARTMENT; AND

(II) 1. THE DEPARTMENT HAS APPROVED A CERTIFICATION OF VALID CLAIM SIGNED BY THE OWNER OR OPERATOR AND THE CLAIMANT; OR

2. THE DEPARTMENT HAS RECEIVED A VALID FINAL ORDER SIGNED BY A COURT OF COMPETENT JURISDICTION ESTABLISHING A JUDGMENT AGAINST THE OWNER OR OPERATOR FOR BODILY INJURY OR PROPERTY DAMAGE FROM AN ACCIDENTAL RELEASE FROM AN UNDERGROUND OIL STORAGE TANK.

(9) THE ATTORNEY GENERAL, ACTING ON BEHALF OF THE DEPARTMENT, SHALL HAVE THE RIGHT TO INTERVENE, AT THEIR DISCRETION, IN ANY LAW SUIT INVOLVING THIRD PARTY COMPENSATION CLAIMS THAT ARE REIMBURSABLE UNDER THIS SUBSECTION.