

WILLIAM DONALD SCHAEFER, Governor

(10) (I) WHENEVER THE DEPARTMENT DETERMINES THAT ALL COSTS ELIGIBLE FOR REIMBURSEMENT, INCLUDING BOTH CORRECTIVE ACTION COSTS AND THIRD PARTY COMPENSATION CLAIMS, MAY EXCEED THE PER-OCCURRENCE OR AGGREGATE LIMIT FOR A FACILITY, THE FIRST PRIORITY FOR PAYMENT SHALL BE THE COSTS OF A CORRECTIVE ACTION THAT IS NECESSARY TO PROTECT PUBLIC HEALTH, AND SAFETY, AND THE ENVIRONMENT.

(II) THE REQUIREMENT SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT AFFECT IN ANY WAY THE RIGHTS OF THIRD PARTY CLAIMANTS AGAINST AN OWNER, OPERATOR, OR OTHER PERSON RESPONSIBLE FOR THE DISCHARGE.

(11) IF THE DEPARTMENT DENIES ALL OR PART OF AN APPLICATION FOR REIMBURSEMENT OR GUARANTEE TO A CONTRACTOR, THE OWNER OR OPERATOR MAY, WITHIN 10 DAYS OF RECEIVING NOTICE OF THE DENIAL, REQUEST AN ADMINISTRATIVE HEARING. THE HEARING SHALL BE HELD BY THE DEPARTMENT IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE. AT ANY HEARING, THE OWNER OR OPERATOR SHALL HAVE THE BURDEN OF PROVING THE CLAIM. IF THE OWNER OR OPERATOR IS AGGRIEVED BY A FINAL DECISION OF THE DEPARTMENT, THE OWNER OR OPERATOR MAY TAKE A DIRECT JUDICIAL APPEAL. THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW OF FINAL DECISIONS IN THE ADMINISTRATIVE PROCEDURE ACT.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR IMPLEMENTATION OF THIS SECTION REGARDING FINANCIAL RESPONSIBILITY REQUIREMENTS FOR RELEASES AND USE OF THE UST FUND.

~~(ii) -- FOR -- PURPOSES -- OF -- DETERMINING -- ELIGIBILITY FOR REIMBURSEMENT FROM THE FUND -- THE DEPARTMENT -- SHALL -- CERTIFY WHETHER -- AN -- OWNER -- IS -- IN -- SUBSTANTIAL COMPLIANCE WITH STATE AND FEDERAL PETROLEUM STORAGE TANK REGULATIONS.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the requirement of this Act to pay certain additional transfer fees per barrel of gasoline and diesel is effective on July 1, 1989. Reimbursements and guarantees from the Underground Storage Tank Fund, however, may not be made until January 1, 1990.

SECTION 3. AND BE IT FURTHER ENACTED, That by July 1, 1990, the Department of the Environment shall complete the initial inspection of all underground oil facilities to ensure compliance with all applicable State and federal laws and regulations.

SECTION -2- -3- 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1989.