

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 57.7, 57.9, 57.11, and 57.13 and by adding
6 Sections 57.18 and 57.19 as follows:

7 (415 ILCS 5/57.7)

8 Sec. 57.7. Leaking underground storage tanks; site
9 investigation and corrective action.

10 (a) Site investigation.

11 (1) For any site investigation activities required by
12 statute or rule, the owner or operator shall submit to the
13 Agency for approval a site investigation plan designed to
14 determine the nature, concentration, direction of
15 movement, rate of movement, and extent of the contamination
16 as well as the significant physical features of the site
17 and surrounding area that may affect contaminant transport
18 and risk to human health and safety and the environment.

19 (2) Any owner or operator intending to seek payment
20 from the Fund shall submit to the Agency for approval a
21 site investigation budget that includes, but is not limited
22 to, an accounting of all costs associated with the
23 implementation and completion of the site investigation

1 plan.

2 (3) Remediation objectives for the applicable
3 indicator contaminants shall be determined using the
4 tiered approach to corrective action objectives rules
5 adopted by the Board pursuant to this Title and Title XVII
6 of this Act. For the purposes of this Title, "Contaminant
7 of Concern" or "Regulated Substance of Concern" in the
8 rules means the applicable indicator contaminants set
9 forth in subsection (d) of this Section and the rules
10 adopted thereunder.

11 (4) Upon the Agency's approval of a site investigation
12 plan, or as otherwise directed by the Agency, the owner or
13 operator shall conduct a site investigation in accordance
14 with the plan.

15 (5) Within 30 days after completing the site
16 investigation, the owner or operator shall submit to the
17 Agency for approval a site investigation completion
18 report. At a minimum the report shall include all of the
19 following:

20 (A) Executive summary.

21 (B) Site history.

22 (C) Site-specific sampling methods and results.

23 (D) Documentation of all field activities,
24 including quality assurance.

25 (E) Documentation regarding the development of
26 proposed remediation objectives.

1 (F) Interpretation of results.

2 (G) Conclusions.

3 (b) Corrective action.

4 (1) If the site investigation confirms none of the
5 applicable indicator contaminants exceed the proposed
6 remediation objectives, within 30 days after completing
7 the site investigation the owner or operator shall submit
8 to the Agency for approval a corrective action completion
9 report in accordance with this Section.

10 (2) If any of the applicable indicator contaminants
11 exceed the remediation objectives approved for the site,
12 within 30 days after the Agency approves the site
13 investigation completion report the owner or operator
14 shall submit to the Agency for approval a corrective action
15 plan designed to mitigate any threat to human health, human
16 safety, or the environment resulting from the underground
17 storage tank release. The plan shall describe the selected
18 remedy and evaluate its ability and effectiveness to
19 achieve the remediation objectives approved for the site.
20 At a minimum, the report shall include all of the
21 following:

22 (A) Executive summary.

23 (B) Statement of remediation objectives.

24 (C) Remedial technologies selected.

25 (D) Confirmation sampling plan.

26 (E) Current and projected future use of the

1 property.

2 (F) Applicable preventive, engineering, and
3 institutional controls including long-term
4 reliability, operating, and maintenance plans, and
5 monitoring procedures.

6 (G) A schedule for implementation and completion
7 of the plan.

8 (3) Any owner or operator intending to seek payment
9 from the Fund shall submit to the Agency for approval a
10 corrective action budget that includes, but is not limited
11 to, an accounting of all costs associated with the
12 implementation and completion of the corrective action
13 plan.

14 (4) Upon the Agency's approval of a corrective action
15 plan, or as otherwise directed by the Agency, the owner or
16 operator shall proceed with corrective action in
17 accordance with the plan.

18 (5) Within 30 days after the completion of a corrective
19 action plan that achieves applicable remediation
20 objectives the owner or operator shall submit to the Agency
21 for approval a corrective action completion report. The
22 report shall demonstrate whether corrective action was
23 completed in accordance with the approved corrective
24 action plan and whether the remediation objectives
25 approved for the site, as well as any other requirements of
26 the plan, have been achieved.

1 (6) If within 4 years after the approval of any
2 corrective action plan the applicable remediation
3 objectives have not been achieved and the owner or operator
4 has not submitted a corrective action completion report,
5 the owner or operator must submit a status report for
6 Agency review. The status report must include, but is not
7 limited to, a description of the remediation activities
8 taken to date, the effectiveness of the method of
9 remediation being used, the likelihood of meeting the
10 applicable remediation objectives using the current method
11 of remediation, and the date the applicable remediation
12 objectives are expected to be achieved.

13 (7) If the Agency determines any approved corrective
14 action plan will not achieve applicable remediation
15 objectives within a reasonable time, based upon the method
16 of remediation and site specific circumstances, the Agency
17 may require the owner or operator to submit to the Agency
18 for approval a revised corrective action plan. If the owner
19 or operator intends to seek payment from the Fund, the
20 owner or operator must also submit a revised budget.

21 (c) Agency review and approval.

22 (1) Agency approval of any plan and associated budget,
23 as described in this subsection (c), shall be considered
24 final approval for purposes of seeking and obtaining
25 payment from the Underground Storage Tank Fund if the costs
26 associated with the completion of any such plan are less

1 than or equal to the amounts approved in such budget.

2 (2) In the event the Agency fails to approve,
3 disapprove, or modify any plan or report submitted pursuant
4 to this Title in writing within 120 days of the receipt by
5 the Agency, the plan or report shall be considered to be
6 rejected by operation of law for purposes of this Title and
7 rejected for purposes of payment from the Underground
8 Storage Tank Fund.

9 (A) For purposes of those plans as identified in
10 paragraph (5) of this subsection (c), the Agency's
11 review may be an audit procedure. Such review or audit
12 shall be consistent with the procedure for such review
13 or audit as promulgated by the Board under Section
14 57.14. The Agency has the authority to establish an
15 auditing program to verify compliance of such plans
16 with the provisions of this Title.

17 (B) For purposes of corrective action plans
18 submitted pursuant to subsection (b) of this Section
19 for which payment from the Fund is not being sought,
20 the Agency need not take action on such plan until 120
21 days after it receives the corrective action
22 completion report required under subsection (b) of
23 this Section. In the event the Agency approved the
24 plan, it shall proceed under the provisions of this
25 subsection (c).

26 (3) In approving any plan submitted pursuant to

1 subsection (a) or (b) of this Section, the Agency shall
2 determine, by a procedure promulgated by the Board under
3 Section 57.14, that the costs associated with the plan are
4 reasonable, will be incurred in the performance of site
5 investigation or corrective action, and will not be used
6 for site investigation or corrective action activities in
7 excess of those required to meet the minimum requirements
8 of this Title.

9 (A) For purposes of payment from the Fund,
10 corrective action activities required to meet the
11 minimum requirements of this Title shall include, but
12 not be limited to, the following use of the Board's
13 Tiered Approach to Corrective Action Objectives rules
14 adopted under Title XVII of this Act:

15 (i) For the site where the release occurred,
16 the use of Tier 2 remediation objectives that are
17 no more stringent than Tier 1 remediation
18 objectives.

19 (ii) The use of industrial/commercial property
20 remediation objectives, unless the owner or
21 operator demonstrates that the property being
22 remediated is residential property or being
23 developed into residential property.

24 (iii) The use of groundwater ordinances as
25 institutional controls in accordance with Board
26 rules.

1 (iv) The use of on-site groundwater use
2 restrictions as institutional controls in
3 accordance with Board rules.

4 (B) Any bidding process adopted under Board rules
5 to determine the reasonableness of costs of corrective
6 action must provide for a publicly-noticed,
7 competitive, and sealed bidding process that includes,
8 at a minimum, the following:

9 (i) The owner or operator must issue
10 invitations for bids that include, at a minimum, a
11 description of the work being bid and applicable
12 contractual terms and conditions. The criteria on
13 which the bids will be evaluated must be set forth
14 in the invitation for bids. The criteria may
15 include, but shall not be limited to, criteria for
16 determining acceptability, such as inspection,
17 testing, quality, workmanship, delivery, and
18 suitability for a particular purpose. Criteria
19 that will affect the bid price and be considered in
20 the evaluation of a bid, such as discounts, shall
21 be objectively measurable.

22 (ii) At least 14 days prior to the date set in
23 the invitation for the opening of bids, public
24 notice of the invitation for bids must be published
25 in a local paper of general circulation for the
26 area in which the site is located.

1 (iii) Bids must be opened publicly in the
2 presence of one or more witnesses at the time and
3 place designated in the invitation for bids. The
4 name of each bidder, the amount of each bid, and
5 other relevant information as specified in Board
6 rules must be recorded and submitted to the Agency
7 in the applicable budget. After selection of the
8 winning bid, the winning bid and the record of each
9 unsuccessful bid shall be open to public
10 inspection.

11 (iv) Bids must be unconditionally accepted
12 without alteration or correction. Bids must be
13 evaluated based on the requirements set forth in
14 the invitation for bids, which may include
15 criteria for determining acceptability, such as
16 inspection, testing, quality, workmanship,
17 delivery, and suitability for a particular
18 purpose. Criteria that will affect the bid price
19 and be considered in the evaluation of a bid, such
20 as discounts, shall be objectively measurable. The
21 invitation for bids shall set forth the evaluation
22 criteria to be used.

23 (v) Correction or withdrawal of inadvertently
24 erroneous bids before or after selection of the
25 winning bid, or cancellation of winning bids based
26 on bid mistakes, shall be allowed in accordance

1 with Board rules. After bid opening, no changes in
2 bid prices or other provisions of bids prejudicial
3 to the owner or operator or fair competition shall
4 be allowed. All decisions to allow the correction
5 or withdrawal of bids based on bid mistakes shall
6 be supported by a written determination made by the
7 owner or operator.

8 (vi) The owner or operator shall select the
9 winning bid with reasonable promptness by written
10 notice to the lowest responsible and responsive
11 bidder whose bid meets the requirements and
12 criteria set forth in the invitation for bids. The
13 winning bid and other relevant information as
14 specified in Board rules must be recorded and
15 submitted to the Agency in the applicable budget.

16 (vii) All bidding documentation must be
17 retained by the owner or operator for a minimum of
18 3 years after the costs bid are submitted in an
19 application for payment, except that documentation
20 relating to an appeal, litigation, or other
21 disputed claim must be maintained until at least 3
22 years after the date of the final disposition of
23 the appeal, litigation, or other disputed claim.
24 All bidding documentation must be made available
25 to the Agency for inspection and copying during
26 normal business hours.

1 (C) Any bidding process adopted under Board rules
2 to determine the reasonableness of costs of corrective
3 action shall (i) be optional and (ii) allow bidding
4 only if the owner or operator demonstrates that
5 corrective action cannot be performed for amounts less
6 than or equal to maximum payment amounts adopted by the
7 Board.

8 (4) For any plan or report received after June 24,
9 2002, any action by the Agency to disapprove or modify a
10 plan submitted pursuant to this Title shall be provided to
11 the owner or operator in writing within 120 days of the
12 receipt by the Agency or, in the case of a site
13 investigation plan or corrective action plan for which
14 payment is not being sought, within 120 days of receipt of
15 the site investigation completion report or corrective
16 action completion report, respectively, and shall be
17 accompanied by:

18 (A) an explanation of the Sections of this Act
19 which may be violated if the plans were approved;

20 (B) an explanation of the provisions of the
21 regulations, promulgated under this Act, which may be
22 violated if the plan were approved;

23 (C) an explanation of the specific type of
24 information, if any, which the Agency deems the
25 applicant did not provide the Agency; and

26 (D) a statement of specific reasons why the Act and

1 the regulations might not be met if the plan were
2 approved.

3 Any action by the Agency to disapprove or modify a plan
4 or report or the rejection of any plan or report by
5 operation of law shall be subject to appeal to the Board in
6 accordance with the procedures of Section 40. If the owner
7 or operator elects to incorporate modifications required
8 by the Agency rather than appeal, an amended plan shall be
9 submitted to the Agency within 35 days of receipt of the
10 Agency's written notification.

11 (5) For purposes of this Title, the term "plan" shall
12 include:

13 (A) Any site investigation plan submitted pursuant
14 to subsection (a) of this Section;

15 (B) Any site investigation budget submitted
16 pursuant to subsection (a) of this Section;

17 (C) Any corrective action plan submitted pursuant
18 to subsection (b) of this Section; or

19 (D) Any corrective action plan budget submitted
20 pursuant to subsection (b) of this Section.

21 (d) For purposes of this Title, the term "indicator
22 contaminant" shall mean, unless and until the Board promulgates
23 regulations to the contrary, the following: (i) if an
24 underground storage tank contains gasoline, the indicator
25 parameter shall be BTEX and Benzene; (ii) if the tank contained
26 petroleum products consisting of middle distillate or heavy

1 ends, then the indicator parameter shall be determined by a
2 scan of PNA's taken from the location where contamination is
3 most likely to be present; and (iii) if the tank contained used
4 oil, then the indicator contaminant shall be those chemical
5 constituents which indicate the type of petroleum stored in an
6 underground storage tank. All references in this Title to
7 groundwater objectives shall mean Class I groundwater
8 standards or objectives as applicable.

9 (e) (1) Notwithstanding the provisions of this Section, an
10 owner or operator may proceed to conduct site investigation
11 or corrective action prior to the submittal or approval of
12 an otherwise required plan. If the owner or operator elects
13 to so proceed, an applicable plan shall be filed with the
14 Agency at any time. Such plan shall detail the steps taken
15 to determine the type of site investigation or corrective
16 action which was necessary at the site along with the site
17 investigation or corrective action taken or to be taken, in
18 addition to costs associated with activities to date and
19 anticipated costs.

20 (2) Upon receipt of a plan submitted after activities
21 have commenced at a site, the Agency shall proceed to
22 review in the same manner as required under this Title. In
23 the event the Agency disapproves all or part of the costs,
24 the owner or operator may appeal such decision to the
25 Board. The owner or operator shall not be eligible to be
26 reimbursed for such disapproved costs unless and until the

1 Board determines that such costs were eligible for payment.

2 (f) All investigations, plans, and reports conducted or
3 prepared under this Section shall be conducted or prepared
4 under the supervision of a licensed professional engineer and
5 in accordance with the requirements of this Title.

6 (Source: P.A. 95-331, eff. 8-21-07.)

7 (415 ILCS 5/57.9)

8 Sec. 57.9. Underground Storage Tank Fund; eligibility and
9 deductibility.

10 (a) The Underground Storage Tank Fund shall be accessible
11 by owners and operators who have a confirmed release from an
12 underground storage tank or related tank system of a substance
13 listed in this Section. The owner or operator is eligible to
14 access the Underground Storage Tank Fund if the eligibility
15 requirements of this Title are satisfied and:

16 (1) Neither the owner nor the operator is the United
17 States Government.

18 (2) The tank does not contain fuel which is exempt from
19 the Motor Fuel Tax Law.

20 (3) The costs were incurred as a result of a confirmed
21 release of any of the following substances:

22 (A) "Fuel", as defined in Section 1.19 of the Motor
23 Fuel Tax Law.

24 (B) Aviation fuel.

25 (C) Heating oil.

1 (D) Kerosene.

2 (E) Used oil which has been refined from crude oil
3 used in a motor vehicle, as defined in Section 1.3 of
4 the Motor Fuel Tax Law.

5 (4) The owner or operator registered the tank and paid
6 all fees in accordance with the statutory and regulatory
7 requirements of the Gasoline Storage Act.

8 (5) The owner or operator notified the Illinois
9 Emergency Management Agency of a confirmed release, the
10 costs were incurred after the notification and the costs
11 were a result of a release of a substance listed in this
12 Section. Costs of corrective action or indemnification
13 incurred before providing that notification shall not be
14 eligible for payment.

15 (6) The costs have not already been paid to the owner
16 or operator under a private insurance policy, other written
17 agreement, or court order.

18 (7) The costs were associated with "corrective action"
19 of this Act.

20 If the underground storage tank which experienced a
21 release of a substance listed in this Section was installed
22 after July 28, 1989, the owner or operator is eligible to
23 access the Underground Storage Tank Fund if it is
24 demonstrated to the Office of the State Fire Marshal the
25 tank was installed and operated in accordance with Office
26 of the State Fire Marshal regulatory requirements. Office

1 of the State Fire Marshal certification is prima facie
2 evidence the tank was installed pursuant to the Office of
3 the State Fire Marshal regulatory requirements.

4 (b) For releases reported prior to the effective date of
5 this amendatory Act of the 96th General Assembly, an ~~An~~ owner
6 or operator may access the Underground Storage Tank Fund for
7 costs associated with an Agency approved plan and the Agency
8 shall approve the payment of costs associated with corrective
9 action after the application of a \$10,000 deductible, except in
10 the following situations:

11 (1) A deductible of \$100,000 shall apply when none of
12 the underground storage tanks were registered prior to July
13 28, 1989, except in the case of underground storage tanks
14 used exclusively to store heating oil for consumptive use
15 on the premises where stored and which serve other than
16 farms or residential units, a deductible of \$100,000 shall
17 apply when none of these tanks were registered prior to
18 July 1, 1992.

19 (2) A deductible of \$50,000 shall apply if any of the
20 underground storage tanks were registered prior to July 28,
21 1989, and the State received notice of the confirmed
22 release prior to July 28, 1989.

23 (3) A deductible of \$15,000 shall apply when one or
24 more, but not all, of the underground storage tanks were
25 registered prior to July 28, 1989, and the State received
26 notice of the confirmed release on or after July 28, 1989.

1 For releases reported on or after the effective date of
2 this amendatory Act of the 96th General Assembly, an owner or
3 operator may access the Underground Storage Tank Fund for costs
4 associated with an Agency approved plan, and the Agency shall
5 approve the payment of costs associated with corrective action
6 after the application of a \$5,000 deductible.

7 A deductible shall apply annually for each site at which
8 costs were incurred under a claim submitted pursuant to this
9 Title, except that if corrective action in response to an
10 occurrence takes place over a period of more than one year, in
11 subsequent years, no deductible shall apply for costs incurred
12 in response to such occurrence.

13 (c) Eligibility and deductibility determinations shall be
14 made by the Office of the State Fire Marshal.

15 (1) When an owner or operator reports a confirmed
16 release of a regulated substance, the Office of the State
17 Fire Marshal shall provide the owner or operator with an
18 "Eligibility and Deductibility Determination" form. The
19 form shall either be provided on-site or within 15 days of
20 the Office of the State Fire Marshal receipt of notice
21 indicating a confirmed release. The form shall request
22 sufficient information to enable the Office of the State
23 Fire Marshal to make a final determination as to owner or
24 operator eligibility to access the Underground Storage
25 Tank Fund pursuant to this Title and the appropriate
26 deductible. The form shall be promulgated as a rule or

1 regulation pursuant to the Illinois Administrative
2 Procedure Act by the Office of the State Fire Marshal.
3 Until such form is promulgated, the Office of State Fire
4 Marshal shall use a form which generally conforms with this
5 Act.

6 (2) Within 60 days of receipt of the "Eligibility and
7 Deductibility Determination" form, the Office of the State
8 Fire Marshal shall issue one letter enunciating the final
9 eligibility and deductibility determination, and such
10 determination or failure to act within the time prescribed
11 shall be a final decision appealable to the Illinois
12 Pollution Control Board.

13 (Source: P.A. 88-496.)

14 (415 ILCS 5/57.11)

15 Sec. 57.11. Underground Storage Tank Fund; creation.

16 (a) There is hereby created in the State Treasury a special
17 fund to be known as the Underground Storage Tank Fund. There
18 shall be deposited into the Underground Storage Tank Fund all
19 monies received by the Office of the State Fire Marshal as fees
20 for underground storage tanks under Sections 4 and 5 of the
21 Gasoline Storage Act and as fees pursuant to the Motor Fuel Tax
22 Law. All amounts held in the Underground Storage Tank Fund
23 shall be invested at interest by the State Treasurer. All
24 income earned from the investments shall be deposited into the
25 Underground Storage Tank Fund no less frequently than

1 quarterly. Moneys in the Underground Storage Tank Fund,
2 pursuant to appropriation, may be used by the Agency and the
3 Office of the State Fire Marshal for the following purposes:

4 (1) To take action authorized under Section 57.12 to
5 recover costs under Section 57.12.

6 (2) To assist in the reduction and mitigation of damage
7 caused by leaks from underground storage tanks, including
8 but not limited to, providing alternative water supplies to
9 persons whose drinking water has become contaminated as a
10 result of those leaks.

11 (3) To be used as a matching amount towards federal
12 assistance relative to the release of petroleum from
13 underground storage tanks.

14 (4) For the costs of administering activities of the
15 Agency and the Office of the State Fire Marshal relative to
16 the Underground Storage Tank Fund.

17 (5) For payment of costs of corrective action incurred
18 by and indemnification to operators of underground storage
19 tanks as provided in this Title.

20 (6) For a total of 2 demonstration projects in amounts
21 in excess of a \$10,000 deductible charge designed to assess
22 the viability of corrective action projects at sites which
23 have experienced contamination from petroleum releases.
24 Such demonstration projects shall be conducted in
25 accordance with the provision of this Title.

26 (7) Subject to appropriation, moneys in the

1 Underground Storage Tank Fund may also be used by the
2 Department of Revenue for the costs of administering its
3 activities relative to the Fund and for refunds provided
4 for in Section 13a.8 of the Motor Fuel Tax Act.

5 (b) Moneys in the Underground Storage Tank Fund may,
6 pursuant to appropriation, be used by the Office of the State
7 Fire Marshal or the Agency to take whatever emergency action is
8 necessary or appropriate to assure that the public health or
9 safety is not threatened whenever there is a release or
10 substantial threat of a release of petroleum from an
11 underground storage tank and for the costs of administering its
12 activities relative to the Underground Storage Tank Fund.

13 (c) Beginning July 1, 1993, the Governor shall certify to
14 the State Comptroller and State Treasurer the monthly amount
15 necessary to pay debt service on State obligations issued
16 pursuant to Section 6 of the General Obligation Bond Act. On
17 the last day of each month, the Comptroller shall order
18 transferred and the Treasurer shall transfer from the
19 Underground Storage Tank Fund to the General Obligation Bond
20 Retirement and Interest Fund the amount certified by the
21 Governor, plus any cumulative deficiency in those transfers for
22 prior months.

23 (d) Except as provided in subsection (c) of this Section,
24 the Underground Storage Tank Fund is not subject to
25 administrative charges authorized under Section 8h of the State
26 Finance Act that would in any way transfer any funds from the

1 Underground Storage Tank Fund into any other fund of the State.

2 (e) Each fiscal year, subject to appropriation, the Agency
3 may commit up to \$10,000,000 of the moneys in the Underground
4 Storage Tank Fund to the payment of corrective action costs for
5 legacy sites that meet one or more of the following criteria as
6 a result of the underground storage tank release: (i) the
7 presence of free product, (ii) contamination within a regulated
8 recharge area, a wellhead protection area, or the setback zone
9 of a potable water supply well, (iii) contamination extending
10 beyond the boundaries of the site where the release occurred,
11 or (iv) such other criteria as may be adopted in Agency rules.

12 (1) Fund moneys committed under this subsection (e)
13 shall be held in the Fund for payment of the corrective
14 action costs for which the moneys were committed.

15 (2) The Agency may adopt rules governing the commitment
16 of Fund moneys under this subsection (e).

17 (3) This subsection (e) does not limit the use of Fund
18 moneys at legacy sites as otherwise provided under this
19 Title.

20 (4) For the purposes of this subsection (e), the term
21 "legacy site" means a site for which (i) an underground
22 storage tank release was reported prior to January 1, 2005,
23 (ii) the owner or operator has been determined eligible to
24 receive payment from the Fund for corrective action costs,
25 and (iii) the Agency did not receive any applications for
26 payment prior to January 1, 2010.

1 (Source: P.A. 96-34, eff. 7-13-09.)

2 (415 ILCS 5/57.13)

3 Sec. 57.13. Underground Storage Tank Program; transition.
4 This Title applies to all underground storage tank releases for
5 which a No Further Remediation Letter is issued on or after the
6 effective date of this amendatory Act of the 96th General
7 Assembly, provided that (i) costs incurred prior to the
8 effective date of this amendatory Act shall be payable from the
9 UST Fund in the same manner as allowed under the law in effect
10 at the time the costs were incurred and (ii) releases for which
11 corrective action was completed prior to the effective date of
12 this amendatory Act shall be eligible for a No Further
13 Remediation Letter in the same manner as allowed under the law
14 in effect at the time the corrective action was completed.

15 ~~(a) If a release is reported to the proper State authority~~
16 ~~on or after June 24, 2002, the owner or operator shall comply~~
17 ~~with the requirements of this Title.~~

18 ~~(b) If a release is reported to the proper State authority~~
19 ~~prior to June 24, 2002, the owner or operator of an underground~~
20 ~~storage tank may elect to proceed in accordance with the~~
21 ~~requirements of this Title by submitting a written statement to~~
22 ~~the Agency of such election. If the owner or operator elects to~~
23 ~~proceed under the requirements of this Title all costs incurred~~
24 ~~in connection with the incident prior to notification shall be~~
25 ~~reimbursable in the same manner as was allowable under the then~~

1 ~~existing law. Completion of corrective action shall then follow~~
2 ~~the provisions of this Title.~~

3 (Source: P.A. 95-331, eff. 8-21-07.)

4 (415 ILCS 5/57.18 new)

5 Sec. 57.18. Additional remedial action required by change
6 in law; Agency's duty to propose amendment. If a change in
7 State or federal law requires additional remedial action in
8 response to releases for which No Further Remediation Letters
9 have been issued, the Agency shall propose in the next
10 convening of a regular session of the current General Assembly
11 amendments to this Title to allow owners and operators to
12 perform the additional remedial action and seek payment from
13 the Fund for the costs of the action.

14 (415 ILCS 5/57.19 new)

15 Sec. 57.19. Costs incurred after the issuance of a No
16 Further Remediation Letter. The following shall be considered
17 corrective action activities eligible for payment from the Fund
18 even when an owner or operator conducts these activities after
19 the issuance of a No Further Remediation Letter. Corrective
20 action conducted under this Section and costs incurred under
21 this Section must comply with the requirements of this Title
22 and Board rules adopted under this Title.

23 (1) Corrective action to achieve residential property
24 remediation objectives if the owner or operator

1 demonstrates that property remediated to
2 industrial/commercial property remediation objectives
3 pursuant to subdivision (c)(3)(A)(ii) of Section 57.7 of
4 this Act is being developed into residential property.

5 (2) Corrective action to address groundwater
6 contamination if the owner or operator demonstrates that
7 action is necessary because a groundwater ordinance used as
8 an institutional control pursuant to subdivision
9 (c)(3)(A)(iii) of Section 57.7 of this Act can no longer be
10 used as an institutional control.

11 (3) Corrective action to address groundwater
12 contamination if the owner or operator demonstrates that
13 action is necessary because an on-site groundwater use
14 restriction used as an institutional control pursuant to
15 subdivision (c)(3)(A)(iv) of Section 57.7 of this Act must
16 be lifted in order to allow the installation of a potable
17 water supply well due to public water supply service no
18 longer being available for reasons other than an act or
19 omission of the owner or operator.

20 (4) The disposal of soil that does not exceed
21 industrial/commercial property remediation objectives, but
22 that does exceed residential property remediation
23 objectives, if industrial/commercial property remediation
24 objectives were used pursuant to subdivision (c)(3)(A)(ii)
25 of Section 57.7 of this Act and the owner or operator
26 demonstrates that (i) the contamination is the result of

1 the release for which the owner or operator is eligible to
2 seek payment from the Fund and (ii) disposal of the soil is
3 necessary as a result of construction activities conducted
4 after the issuance of a No Further Remediation Letter on
5 the site where the release occurred, including, but not
6 limited to, the following: tank, line, or canopy repair,
7 replacement, or removal; building upgrades; sign
8 installation; and water or sewer line replacement.

9 (5) The disposal of water exceeding groundwater
10 remediation objectives that is removed from an excavation
11 on the site where the release occurred if a groundwater
12 ordinance is used as an institutional control pursuant to
13 subdivision (c) (3) (A) (iii) of Section 57.7 of this Act, or
14 if an on-site groundwater use restriction is used as an
15 institutional control pursuant to subdivision
16 (c) (3) (A) (iv) of Section 57.7, and the owner or operator
17 demonstrates that (i) the excavation is located within the
18 measured or modeled extent of groundwater contamination
19 resulting from the release for which the owner or operator
20 is eligible to seek payment from the Fund and (ii) disposal
21 of the groundwater is necessary as a result of construction
22 activities conducted after the issuance of a No Further
23 Remediation Letter on the site where the release occurred,
24 including, but not limited to, the following: tank, line,
25 or canopy repair, replacement, or removal; building
26 upgrades; sign installation; and water or sewer line

1 replacement.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.