

1 AMENDMENT TO HOUSE BILL 2575

2 AMENDMENT NO. _____. Amend House Bill 2575 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended
5 by changing Sections 57.1, 57.2, 57.5, 57.6, 57.7, 57.8,
6 57.10, and 57.13 and adding Section 57.14A as follows:

7 (415 ILCS 5/57.1)
8 Sec. 57.1. Applicability.

9 (a) An owner or operator of an underground storage tank
10 who meets the definition of this Title shall be required to
11 conduct tank removal, abandonment and, repair, site
12 investigation, and physical-soil-classification, groundwater
13 investigation, site-classification-or corrective action in
14 accordance with the requirements of the Leaking Underground
15 Storage Tank Program.

16 (b) An owner or operator of a heating oil tank as
17 defined by this Title may elect to perform tank removal,
18 abandonment or, repair, site investigation, or corrective
19 action, unless the provisions of subsection (g) of Section
20 57.5 are applicable.

21 (c) All owners or operators who conduct tank removal,
22 repair or abandonment, site investigation, physical-soil

1 ~~classification,-----groundwater-----investigation,-----site~~
 2 ~~classification~~ or corrective action may be eligible for the
 3 relief provided for under Section 57.10 of this Title.

4 (d) The owners or operators, or both, of underground
 5 storage tanks containing regulated substances other than
 6 petroleum shall undertake corrective action in conformance
 7 with regulations promulgated by the Illinois Pollution
 8 Control Board.

9 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
 10 5-22-96.)

11 (415 ILCS 5/57.2)

12 Sec. 57.2. Definitions. As used in this Title:

13 "Audit" means a systematic inspection or examination of
 14 plans, reports, records, or documents to determine the
 15 completeness and accuracy of the data and conclusions
 16 contained therein.

17 "Bodily injury" means bodily injury, sickness, or disease
 18 sustained by a person, including death at any time, resulting
 19 from a release of petroleum from an underground storage tank.

20 "Release" means any spilling, leaking, emitting,
 21 discharging, escaping, leaching or disposing of petroleum
 22 from an underground storage tank into groundwater, surface
 23 water or subsurface soils.

24 "Fill material" means non-native or disturbed materials
 25 used to bed and backfill around an underground storage tank.

26 "Fund" means the Underground Storage Tank Fund.

27 "Heating Oil" means petroleum that is No. 1, No. 2, No. 4
 28 - light, No. 4 - heavy, No. 5 - light, No. 5 - heavy or No. 6
 29 technical grades of fuel oil; and other residual fuel oils
 30 including Navy Special Fuel Oil and Bunker C.

31 "Indemnification" means indemnification of an owner or
 32 operator for the amount of any judgment entered against the
 33 owner or operator in a court of law, for the amount of any

1 final order or determination made against the owner or
2 operator by an agency of State government or any subdivision
3 thereof, or for the amount of any settlement entered into by
4 the owner or operator, if the judgment, order, determination,
5 or settlement arises out of bodily injury or property damage
6 suffered as a result of a release of petroleum from an
7 underground storage tank owned or operated by the owner or
8 operator.

9 "Corrective action" means activities associated with
10 compliance with the provisions of Sections 57.6 and 57.7 of
11 this Title.

12 "Occurrence" means an accident, including continuous or
13 repeated exposure to conditions, that results in a sudden or
14 nonsudden release from an underground storage tank.

15 When used in connection with, or when otherwise relating
16 to, underground storage tanks, the terms "facility", "owner",
17 "operator", "underground storage tank", "(UST)", "petroleum"
18 and "regulated substance" shall have the meanings ascribed to
19 them in Subtitle I of the Hazardous and Solid Waste
20 Amendments of 1984 (P.L. 98-616), of the Resource
21 Conservation and Recovery Act of 1976 (P.L. 94-580); provided
22 however that the term "underground storage tank" shall also
23 mean an underground storage tank used exclusively to store
24 heating oil for consumptive use on the premises where stored
25 and which serves other than a farm or residential unit.

26 "Licensed Professional Engineer" means a person,
27 corporation, or partnership licensed under the laws of the
28 State of Illinois to practice professional engineering.

29 "Site" means any single location, place, tract of land or
30 parcel of property including contiguous property not
31 separated by a public right-of-way.

32 "Site investigation" means activities associated with
33 compliance with the provisions of subsection (a) of Section
34 57.7.

1 "Physical-soil-classification"--means--verification--that
2 subsurface--strata-are-as-generally-mapped-in-the-publication
3 Illinois-Geological-Survey-Circular-(1984)-titled--"Potential
4 for--Contamination-of-Shallow-Aquifers-in-Illinois,"-by-Berg,
5 Richard-C.,-et-al.--Such-classification-may-include-review-of
6 soil-borings,-well-logs,-physical--soil--analyses,-regional
7 geologic-maps,-or-other-scientific-publications.

8 "Property damage" means physical injury to, destruction
9 of, or contamination of tangible property, including all
10 resulting loss of use of that property; or loss of use of
11 tangible property that is not physically injured, destroyed,
12 or contaminated, but has been evacuated, withdrawn from use,
13 or rendered inaccessible because of a release of petroleum
14 from an underground storage tank.

15 "Class I Groundwater" means groundwater that meets the
16 Class I: Potable Resource Groundwater criteria set forth in
17 the Board regulations adopted pursuant to the Illinois
18 Groundwater Protection Act.

19 "Class III Groundwater" means groundwater that meets the
20 Class III: Special Resource Groundwater criteria set forth
21 in the Board regulations adopted pursuant to the Illinois
22 Groundwater Protection Act.

23 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
24 5-22-96.)

25 (415 ILCS 5/57.5)

26 Sec. 57.5. Underground Storage Tanks; removal; repair;
27 abandonment.

28 (a) Notwithstanding the eligibility or the level of
29 deductibility of an owner or operator under the Underground
30 Storage Tank Fund, any owner or operator of an Underground
31 Storage Tank may seek to remove or abandon such tank under
32 the provisions of this Title. In order to be reimbursed
33 under Section 57.8, the owner or operator must comply with

1 the provisions of this Title. In no event will an owner or
2 operator be reimbursed for any costs which exceed the minimum
3 requirements necessary to comply with this Title.

4 (b) Removal or abandonment of an Underground Storage
5 Tank must be carried out in accordance with regulations
6 adopted by the Office of State Fire Marshal.

7 (c) The Office of the State Fire Marshal or a designated
8 agent shall have an inspector on site at the time of removal,
9 abandonment, or such other times the Office of State Fire
10 Marshal deems appropriate. At such time, the inspector
11 shall, upon preliminary excavation of the tank site, render
12 an opinion as to whether a release of petroleum has occurred
13 and, if so, the owner or operator shall report the known or
14 suspected release to the Illinois Emergency Management
15 Agency. The owner or operator shall determine whether or not
16 a release has occurred in conformance with the regulations
17 adopted by the Board and the Office of the State Fire
18 Marshal. Except that if the opinion of the Office of the
19 State Fire Marshal inspector is that a release of petroleum
20 has occurred and the owner or operator has reported the
21 release to the Illinois Emergency Management Agency within 24
22 hours of removal of the tank, no such determination is
23 required under this subsection. In the event the owner or
24 operator confirms the presence of a release of petroleum, the
25 owner or operator shall comply with Section 57.6. The
26 inspector shall provide the owner or operator, or a
27 designated agent, with an "Eligibility and Deductibility
28 Determination" form. The Office of the State Fire Marshal
29 shall provide on-site assistance to the owner or operator or
30 a designated agent with regard to the eligibility and
31 deductibility procedures as provided in Section 57.9. If the
32 Office of the State Fire Marshal is not on site, the Office
33 of the State Fire Marshal shall provide the owner or operator
34 with an "Eligibility and Deductibility Determination" form

1 within 15 days after receiving notice that the confirmed
2 release was reported by the owner or operator.

3 (d) In the event that a release of petroleum is
4 confirmed under subsection (c) of this Section, the owner or
5 operator may elect to backfill the preliminary excavation and
6 proceed under Section 57.6.

7 (e) In the event that an Underground Storage Tank is
8 found to be ineligible for payment from the Underground
9 Storage Tank Fund, the owner or operator shall proceed under
10 Sections 57.6 and 57.7.

11 (f) In the event that no release of petroleum is
12 confirmed, the owner or operator shall proceed to complete
13 the removal of the underground storage tank, and when
14 appropriate, dispose of the tank and backfill the excavation
15 or, in the alternate, abandon the underground storage tank in
16 place. Either option shall be in accordance with regulations
17 adopted by the Office of the State Fire Marshal. The owner
18 or operator shall certify to the Office of the State Fire
19 Marshal that the tank removal or abandonment was conducted in
20 accordance with all applicable rules and regulations, and the
21 Office of the State Fire Marshal shall then issue a
22 certificate of removal or abandonment to the owner or
23 operator. If the Office of the State Fire Marshal fails to
24 issue a certificate of removal or abandonment within 30 days
25 of receipt of the certification, the certification shall be
26 considered rejected by operation of law and a final action
27 appealable to the Board. Nothing in this Title shall prohibit
28 the Office of the State Fire Marshal from making an
29 independent inspection of the site and challenging the
30 veracity of the owner or operator certification.

31 (g) The owner or operator of an underground storage tank
32 taken out of operation before January 2, 1974, or an
33 underground storage tank used exclusively to store heating
34 oil for consumptive use on the premises where stored and

1 which serves other than a farm or residential unit shall not
2 be required to remove or abandon in place such underground
3 storage tank except in the case in which the Office of the
4 State Fire Marshal has determined that a release from the
5 underground storage tank poses a current or potential threat
6 to human health and the environment. In that case, and upon
7 receipt of an order from the Office of the State Fire
8 Marshal, the owner or operator of such underground storage
9 tank shall conduct removal and, if necessary, site
10 investigation and corrective action in accordance with this
11 Title and regulations promulgated by the Office of State Fire
12 Marshal and the Board.

13 (h) In the event that a release of petroleum occurred
14 between September 13, 1993, and August 1, 1994, for which the
15 Office of the State Fire Marshal issued a certificate of
16 removal or abandonment based on its determination of "no
17 release" or "minor release," and the Office of the State Fire
18 Marshal subsequently has rescinded that determination and
19 required a report of a confirmed release to the Illinois
20 Emergency Management Agency, the owner or operator may be
21 eligible for reimbursement for the costs of site
22 investigation and corrective action incurred on or after the
23 date of the release but prior to the notification of the
24 Illinois Emergency Management Agency. The date of the
25 release shall be the date of the initial inspection by the
26 Office of the State Fire Marshal as recorded in its
27 inspection log. Eligibility and deductibility shall be
28 determined in accordance with this Title, the owner or
29 operator must comply with the provisions of this Act and its
30 rules, and in no case shall the owner or operator be
31 reimbursed for costs exceeding the minimum requirements of
32 this Act and its rules.

33 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
34 5-22-96.)

(415 ILCS 5/57.6)

Sec. 57.6. Underground storage tanks; early action.

(a) Owners and operators of underground storage tanks shall, in response to all confirmed releases, comply with all applicable statutory and regulatory reporting and response requirements.

(b) Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal. The owner or operator may also remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment for early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank.

(Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff. 5-22-96.)

(415 ILCS 5/57.7)

Sec. 57.7. Leaking underground storage tanks; site investigation physical--soil---classification, groundwater investigation, site-classification, and corrective action.

(a) Site investigation.

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

1 (2) Any owner or operator intending to seek payment
2 from the Fund shall submit to the Agency for approval a
3 site investigation budget that includes, but is not
4 limited to, an accounting of all costs associated with
5 the implementation and completion of the site
6 investigation plan.

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

16 (4) Upon the Agency's approval of a site
17 investigation plan, or as otherwise directed by the
18 Agency, the owner or operator shall conduct a site
19 investigation in accordance with the plan.

20 (5) Within 30 days after completing the site
21 investigation, the owner or operator shall submit to the
22 Agency for approval a site investigation completion
23 report. At a minimum the report shall include all of the
24 following:

25 (A) Executive summary.

26 (B) Site history.

27 (C) Site-specific sampling methods and
28 results.

29 (D) Documentation of all field activities,
30 including quality assurance.

31 (E) Documentation regarding the development of
32 proposed remediation objectives.

33 (F) Interpretation of results.

34 (G) Conclusions.

1 (b) Corrective action.

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

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

20 (A) Executive summary.

21 (B) Statement of remediation objectives.

22 (C) Remedial technologies selected.

23 (D) Confirmation sampling plan.

24 (E) Current and projected future use of the
25 property.

26 (F) Applicable preventive, engineering, and
27 institutional controls including long-term
28 reliability, operating, and maintenance plans, and
29 monitoring procedures.

30 (G) A schedule for implementation and
31 completion of the plan.

32 (3) Any owner or operator intending to seek payment
33 from the Fund shall submit to the Agency for approval a
34 corrective action budget that includes, but is not

1 limited to, an accounting of all costs associated with
2 the implementation and completion of the corrective
3 action plan.

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

8 (5) Within 30 days after the completion of a
9 corrective action plan that achieves applicable
10 remediation objectives the owner or operator shall submit
11 to the Agency for approval a corrective action completion
12 report. The report shall demonstrate whether corrective
13 action was completed in accordance with the approved
14 corrective action plan and whether the remediation
15 objectives approved for the site, as well as any other
16 requirements of the plan, have been achieved.

17 (6) If within 4 years after the approval of any
18 corrective action plan the applicable remediation
19 objectives have not been achieved and the owner or
20 operator has not submitted a corrective action completion
21 report, the owner or operator must submit a status report
22 for Agency review. The status report must include, but is
23 not limited to, a description of the remediation
24 activities taken to date, the effectiveness of the method
25 of remediation being used, the likelihood of meeting the
26 applicable remediation objectives using the current
27 method of remediation, and the date the applicable
28 remediation objectives are expected to be achieved.

29 (7) If the Agency determines any approved
30 corrective action plan will not achieve applicable
31 remediation objectives within a reasonable time, based
32 upon the method of remediation and site specific
33 circumstances, the Agency may require the owner or
34 operator to submit to the Agency for approval a revised

1 corrective action plan. If the owner or operator intends
2 to seek payment from the Fund, the owner or operator must
3 also submit a revised budget.

4 (a) ~~Physical soil classification and groundwater~~
5 ~~investigation.~~

6 (1) ~~Prior to conducting any physical soil~~
7 ~~classification and groundwater investigation activities~~
8 ~~required by statute or regulation, the owner or operator~~
9 ~~shall prepare and submit to the Agency for the Agency's~~
10 ~~approval or modification:~~

11 (A) ~~a physical soil classification and~~
12 ~~groundwater investigation plan designed to~~
13 ~~determine site classification, in accordance~~
14 ~~with subsection (b) of this Section, as High~~
15 ~~Priority, Low Priority, or No Further Action.~~

16 (B) ~~a request for payment of costs~~
17 ~~associated with eligible early action costs as~~
18 ~~provided in Section 57.6(b). However, for~~
19 ~~purposes of payment for early action costs,~~
20 ~~fill materials shall not be removed in an~~
21 ~~amount in excess of 4 feet from the outside~~
22 ~~dimensions of the tank.~~

23 (2) ~~If the owner or operator intends to seek~~
24 ~~payment from the Fund, prior to conducting any physical~~
25 ~~soil classification and groundwater investigation~~
26 ~~activities required by statute or regulation, the owner~~
27 ~~or operator shall submit to the Agency for the Agency's~~
28 ~~approval or modification a physical soil classification~~
29 ~~and groundwater investigation budget which includes, but~~
30 ~~is not limited to, an accounting of all costs associated~~
31 ~~with the implementation and completion of the physical~~
32 ~~soil classification and groundwater investigation plan.~~

33 (3) ~~Within 30 days of completion of the physical~~
34 ~~soil classification or groundwater investigation report~~

1 the-owner-or-operator-shall-submit-to-the-Agency:

2 (A)--all--physical--soil---classification---and
3 groundwater-investigation-results;-and

4 (B)--a-certification-by-a-Licensed-Professional
5 Engineer---of--the--site's--classification--as--High
6 Priority,-Low-Priority,-or--No--Further--Action--in
7 accordance--with--subsection--(b)-of-this-Section-as
8 High-Priority,-Low-Priority,-or-No-Further-Action.

9 (b)--Site-Classification.

10 (1)--After---evaluation---of---the---physical---soil
11 classification--and--groundwater--investigation--results,
12 when-required,-and-general--site--information,-the--site
13 shall---be---classified--as--"No--Further--Action",-
14 "Low-Priority",-or-"High-Priority"-based-on--the--requirements
15 of-this-Section.--Site-classification-shall-be-determined
16 by--a--Licensed--Professional-Engineer-in-accordance-with
17 the--requirements--of--this--Title---and---the---Licensed
18 Professional-Engineer-shall-submit-a-certification-to-the
19 Agency--of--the--site-classification.--The-Agency-has-the
20 authority-to-audit-site--classifications--and--reject--or
21 modify--any--site--classification--inconsistent--with-the
22 requirements-of-this-Title.

23 (2)--Sites-shall-be-classified-as-No-Further--Action
24 if-the-criteria-in-subparagraph-(A)-are-satisfied:

25 (A)(i)--The---site---is---located--in--an--area
26 designated-D,-E,-F-and-G-on-the-Illinois--Geological
27 Survey---Circular---(1984)---titled--"Potential--for
28 Contamination-of-Shallow-Aquifers-in--Illinois,-"--by
29 Berg,-Richard-C,-et-al.;

30 (ii)--A--site-evaluation-under-the-direction-of
31 a--Licensed--Professional--Engineer---verifies---the
32 physical---soil---classification---conditions---are
33 consistent-with--those--indicated--on--the--Illinois
34 Geological--Survey-Circular-(1984)-titled-"Potential

1 for-Contamination-of-Shallow-Aquifers-in--Illinois,"
2 by-Berg, Richard-C., et-al.; and

3 (iii)--The-conditions-identified-in-subsections
4 (b)-(3)(B), (C), (D), and (E) do not exist.

5 (B)--Groundwater--investigation--monitoring--may
6 be--required--to--confirm--that--a--site--meets--the
7 criteria-of-a-No--Further--Action--site.--The--Board
8 shall--adopt--rules-setting-forth-the-criteria-under
9 which-the--Agency--may--exercise--its--discretionary
10 authority--to-require-investigations-and-the-minimum
11 field-requirements-for-conducting-investigations.

12 (3)--Sites-shall-be-classified-as-High--Priority--if
13 any-of-the-following-are-met:

14 (A)--The--site-is-located-in-an-area-designated
15 A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4,
16 or C5--on--the--Illinois-Geological-Survey-Circular
17 (1984)--titled--"Potential--for--Contamination--of
18 Shallow--Aquifers-in-Illinois,"--by-Berg, Richard-C.,
19 et-al.; a-site-evaluation-under-the-direction--of--a
20 Licensed-Professional-Engineer-verifies-the-physical
21 soil--classifications-conditions-are-consistent-with
22 those-indicated-on-the--Illinois--Geological--Survey
23 Circular-----(1984)----entitled----"Potential----for
24 Contamination-of-Shallow-Aquifers-in--Illinois,"--by
25 Berg, Richard-C., et-al.; and-the-results-of-the
26 physical--soil--classification--and--groundwater
27 investigation-indicate-that-an-applicable--indicator
28 contaminant---groundwater---quality---standard---or
29 groundwater--objective--has--been--exceeded--at--the
30 property--boundary--line--or--200--feet---from---the
31 excavation,--whichever--is--less-as-a-consequence-of
32 the-underground-storage-tank-release.

33 (B)--The-underground-storage-tank-is-within-the
34 minimum-or-maximum-setback-zone-of-a--potable--water

1 supply--well-or-regulated-recharge-area-of-a-potable
2 water-supply-well.

3 (C)--There-is-evidence-that, through-natural-or
4 manmade-pathways, migration-of-petroleum--or--vapors
5 threaten--human--health-or-human-safety-or-may-cause
6 explosions--in--basements,--crawl--spaces,--utility
7 conduits,--storm-or-sanitary-sewers, vaults-or-other
8 confined-spaces.

9 (D)--Class--III--special--resource--groundwater
10 exists-within-200-feet-of-the-excavation.

11 (E)--A-surface-water-body-is-adversely-affected
12 by-the-presence-of-a-visible-sheen-or--free--product
13 layer--as--the-result-of-an-underground-storage-tank
14 release.

15 (4)--Sites-shall-be-classified-as--Low--Priority--if
16 all-of-the-following-are-met:

17 (A)--The-site-does-not-meet-any-of-the-criteria
18 for-classification-as-a-High-Priority-Site.

19 (B)-(i)--The-site-is-located-in-area-designated
20 A1,--A2,--A3,--A4,--A5,--AX,--B1,--B2,--BX,--C1,--C2,--C3,--C4,
21 C5-on-the-Illinois-Geological-Survey-Circular-(1984)
22 entitled-"Potential--for--Contamination--of--Shallow
23 Aquifers--in--Illinois,"-by-Berg, Richard-C.,-et-al.;
24 and

25 (ii)--a-site-evaluation-under-the-direction--of
26 a--Licensed--Professional--Engineer--verifies--the
27 physical--soil--classification--conditions--are
28 consistent--with--those--indicated--on--the-Illinois
29 Geological-Survey-Circular-(1984)-titled--"Potential
30 for--Contamination-of-Shallow-Aquifers-in-Illinois,"
31 by-Berg, Richard-C.,-et-al.;-and

32 (iii)--the--results--of--the--physical--soil
33 classification--and-groundwater-investigation-do-not
34 indicate--an--applicable--indicator--contaminant

1 groundwater---quality---standard---or---groundwater
2 objective-has-been-exceeded-at-the-property-boundary
3 line--or-200-feet-from-the-underground-storage-tank,
4 whichever-is-less.

5 (5)--In-the-event-the-results-of-the--physical--soil
6 classification-and-any-required-groundwater-investigation
7 reveal--that-the-actual-site-geologic-characteristics-are
8 different-than-those-indicated-by-the-Illinois-Geological
9 Survey---Circular---(1984)---titled---"Potential---for
10 Contamination--of--Shallow-Aquifers-in-Illinois"--by-Berg,
11 Richard-C.,-et-al.,-classification-of-the-site--shall--be
12 determined----using----the----actual----site----geologic
13 characteristics.

14 (6)--For-purposes-of-physical--soil--classification,
15 the--Board--is--authorized--to--prescribe--by--regulation
16 alternatives--to--use--of--the-Illinois-Geological-Survey
17 Circular-(1984)-titled-"Potential--for--Contamination--of
18 Shallow-Aquifers-in-Illinois"--by-Berg, Richard-C.,-et-al.

19 (c)--Corrective-Action.

20 (1)--High-Priority-Site.

21 (A)--Prior--to--performance--of--any-corrective
22 action,-beyond-that-required--by--Section--57.6--and
23 subsection--(a)--of--Section--57.7--of-this-Act,-the
24 owner-or-operator-shall-prepare-and--submit--to--the
25 Agency--for--the-Agency's-approval-or-modification-a
26 corrective-action--plan--designed--to--mitigate--any
27 threat---to---human--health,-human--safety--or--the
28 environment-resulting-from-the--underground--storage
29 tank-release.

30 (B)--If--the--owner-or-operator-intends-to-seek
31 payment-from-the-Fund,-prior-to-performance--of--any
32 corrective--action--beyond--that-required-by-Section
33 57.6-and-subsection-(a)-of-Section-57.7,-the--owner
34 or--operator--shall--submit--to--the--Agency-for-the

1 Agency's approval or modification a corrective
 2 action plan budget which includes, but is not
 3 limited to, an accounting of all costs associated
 4 with the implementation and completion of the
 5 corrective action plan.

6 (C) The corrective action plan shall do all of
 7 the following:

8 (i) Provide that applicable indicator
 9 contaminant groundwater quality standards or
 10 groundwater objectives will not be exceeded in
 11 groundwater at the property boundary line or
 12 200 feet from the excavation, whichever is
 13 less, or other level if approved by the Agency,
 14 for any contaminant identified in the
 15 groundwater investigation after complete
 16 performance of the corrective action plan.

17 (ii) Provide that Class III special
 18 resource groundwater quality standards for
 19 Class III special resource groundwater within
 20 200 feet of the excavation will not be exceeded
 21 as a result of the underground storage tank
 22 release for any indicator contaminant
 23 identified in the groundwater investigation
 24 after complete performance of the corrective
 25 action plan.

26 (iii) Remediate threats due to the
 27 presence or migration, through natural or
 28 manmade pathways, of petroleum in
 29 concentrations sufficient to harm human health
 30 or human safety or to cause explosions in
 31 basements, crawl spaces, utility conduits,
 32 storm or sanitary sewers, vaults or other
 33 confined spaces.

34 (iv) Remediate threats to a potable water

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supply.

(v) Remediate threats to a surface water body.

(D) Within 30 days of completion of the corrective action, the owner or operator shall submit to the Agency such a completion report that includes a description of the corrective action plan and a description of the corrective action work performed and all analytical or sampling results derived from performance of the corrective action plan.

(E) The Agency shall issue to the owner or operator a no further remediation letter in accordance with Section 57.10 if all of the following are met:

- (i) The corrective action completion report demonstrates that:
 - (a) applicable indicator contaminant groundwater quality standards or groundwater objectives are not exceeded at the property boundary line or 200 feet from the excavation, whichever is less, as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation;
 - (b) Class III special use resource groundwater quality standards, for Class III special use resource groundwater within 200 feet of the underground storage tank, are not exceeded as a result of the underground storage tank release for any contaminant identified in the groundwater investigation;
 - (c) the underground storage tank release does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways,

1 of--petroleum--or--hazardous--substances--in
 2 concentrations-sufficient-to-harm-human--health
 3 or--human--safety--or--to--cause--explosions-in
 4 basements,--crawl--spaces,--utility--conduits,
 5 storm--or--sanitary--sewers,--vaults--or--other
 6 confined--spaces;--(d)--the-underground-storage
 7 tank-release--does--not--threaten--any--surface
 8 water--body;--and--(e)--the-underground-storage
 9 tank-release--does--not--threaten--any--potable
 10 water-supply.

11 (ii)--The-owner-or-operator-submits-to-the
 12 Agency--a--certification--from--a--Licensed
 13 Professional-Engineer-that-the--work--described
 14 in-the-approved-corrective-action-plan-has-been
 15 completed-and-that-the-information-presented-in
 16 the--corrective--action--completion--report--is
 17 accurate-and-complete.

18 (2)--Low-Priority-Site.

19 (A)--Corrective--action--at-a-low-priority-site
 20 must-include-groundwater-monitoring-consistent--with
 21 part-(B)-of-this-paragraph-(2).

22 (B)--Prior--to--implementation--of--groundwater
 23 monitoring,--the-owner-or-operator-shall-prepare-and
 24 submit-to-the-Agency-a-groundwater--monitoring--plan
 25 and,--if--the--owner--or--operator--intends--to--seek
 26 payment-under-this-Title,--an-associated-budget-which
 27 includes,--at-a-minimum,--all-of-the-following:

28 (i)--Placement-of--groundwater--monitoring
 29 wells-at-the-property-line,--or-at-200-feet-from
 30 the--excavation--which-ever-is-closer,--designed
 31 to-provide-the-greatest-likelihood-of-detecting
 32 migration-of-groundwater-contamination.

33 (ii)--Quarterly-groundwater-sampling-for-a
 34 period-of-one-year,--semi-annual--sampling--for

1 the-second-year-and-annual-groundwater-sampling
2 for--one--subsequent--year--for--all--indicator
3 contaminants--identified-during-the-groundwater
4 investigation.

5 (iii)--The-annual-submittal-to-the--Agency
6 of-a-summary-of-groundwater-sampling-results.

7 (C)--If---at---any---time---groundwater---sampling
8 results---indicate---a---confirmed---exceedence---of
9 applicable-indicator-contaminant-groundwater-quality
10 standards-or-groundwater-objectives-as-a--result--of
11 the--underground--storage-tank-release,--the-site-may
12 be-reclassified-as--a--High--Priority--Site--by--the
13 Agency---at--any--time--before--the--Agency's--final
14 approval-of-a-Low--Priority--groundwater--monitoring
15 completion--report.-Agency-review-and-approval-shall
16 be-in-accordance-with-paragraph--(4)--of--subsection
17 (c)-of-this-Section.-If-the-owner-or-operator-elects
18 to-appeal-an-Agency-action-to-disapprove,--modify,--or
19 reject---by---operation---of---law--a--Low--Priority
20 groundwater-monitoring-completion-report,--the-Agency
21 shall-indicate-to-the-Board-in-conjunction-with-such
22 appeal-whether-it-intends-to-reclassify-the-site--as
23 High--Priority.--If-a-site-is-reclassified-as-a-High
24 Priority-Site,--the-owner-or-operator-shall-submit--a
25 corrective--action--plan--and--budget--to-the-Agency
26 within-120-days--of--the--confirmed--exceedence--and
27 shall-initiate-compliance-with-all-corrective-action
28 requirements-for-a-High-Priority-Site.

29 (D)--If,--throughout--the-implementation-of-the
30 groundwater---monitoring---plan,---the---groundwater
31 sampling-results-do-not--confirm--an--exceedence--of
32 applicable-indicator-contaminant-groundwater-quality
33 standards--or--groundwater-objectives-as-a-result-of
34 the-underground-storage-tank-release,--the--owner--or

operator--shall-submit-to-the-Agency-a-certification
of-a-Licensed-Professional-Engineer-so-stating-

(E)--Unless--the--Agency--takes--action---under
subsection--(b)(2)(C)--to--reclassify-a-site-as-high
priority,-upon--receipt--of--a--certification--by--a
Licensed-Professional-Engineer-submitted-pursuant-to
paragraph-(2)-of-subsection-(e)-of-this-Section,-the
Agency--shall--issue--to--the-owner-or-operator-a-no
further--remediation--letter--in---accordance---with
Section-57.10-

(3)--No-Further-Action-Site-

(A)--No---Further---Action---sites--require--no
remediation-beyond-that-required-in-Section-57.6-and
subsection-(a)-of--this--Section--if--the--owner--or
operator-has-submitted-to-the-Agency-a-certification
by--a--Licensed--Professional-Engineer-that-the-site
meets-all-of-the-criteria-for-classification--as--No
Further-Action-in-subsection-(b)-of-this-Section-

(B)--Unless--the--Agency-takes-action-to-reject
or-modify-a-site-classification-under-subsection-(b)
of--this--Section--or--the--site--classification--is
rejected-by-operation-of-law-under--item--(4)(B)--of
subsection--(e)--of--this-Section,-upon-receipt-of-a
certification-by-a--Licensed--Professional--Engineer
submitted--pursuant--to-part-(A)-of-paragraph-(3)-of
subsection-(e)-of-this--Section,-the--Agency--shall
issue---to--the--owner--or--operator--a--no--further
remediation-letter-in-accordance-with-Section-57.10-

(c) (4) Agency review and approval.

(1) (A) Agency approval of any plan and associated
budget, as described in this subsection (c) item-(4),
shall be considered final approval for purposes of
seeking and obtaining payment from the Underground
Storage Tank Fund if the costs associated with the

1 completion of any such plan are less than or equal to the
2 amounts approved in such budget.

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

10 (A) ~~(i)~~ For purposes of those plans as
11 identified in paragraph (5) subparagraph-(E) of this
12 subsection (c) ~~(e)(4)~~, the Agency's review may be an
13 audit procedure. Such review or audit shall be
14 consistent with the procedure for such review or
15 audit as promulgated by the Board under ~~item-(7)-of~~
16 ~~subsection-(b)-of~~ Section 57.14. The Agency has the
17 authority to establish an auditing program to verify
18 compliance of such plans with the provisions of this
19 Title.

20 (B) ~~(ii)~~ For purposes of corrective action
21 these plans submitted pursuant to subsection (b) of
22 this Section Part-(E)-(iii)-of--this--paragraph--(4)
23 for which payment from the Fund is not being sought,
24 the Agency need not take action on such plan until
25 120 days after it receives the corrective action
26 completion report required under subsection (b) of
27 this Section Section-57(e)(1)(D). In the event the
28 Agency approved the plan, it shall proceed under the
29 provisions of this subsection (c) Section-57(e)(4).

30 (3) ~~(C)~~ In approving any plan submitted pursuant to
31 subsection (a) or (b) of this Section Part-(E)-of-this
32 paragraph-(4), the Agency shall determine, by a procedure
33 promulgated by the Board under ~~item-(7)-of-subsection-(b)~~
34 ~~of~~ Section 57.14, that the costs associated with the plan

1 are reasonable, will be incurred in the performance of
 2 site investigation or corrective action, and will not be
 3 used for site investigation or corrective action
 4 activities in excess of those required to meet the
 5 minimum requirements of this Title.

6 (4) (D) For any plan or report received after the
 7 effective date of this amendatory Act of 2001 1993, any
 8 action by the Agency to disapprove or modify a plan
 9 submitted pursuant to this Title shall be provided to the
 10 owner or operator in writing within 120 days of the
 11 receipt by the Agency or, in the case of a site
 12 investigation plan or corrective action plan for which
 13 payment is not being sought, within 120 days of receipt
 14 of the site investigation completion report or corrective
 15 action completion report, respectively, and shall be
 16 accompanied by:

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

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

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

26 (D) (iv) a statement of specific reasons why
 27 the Act and the regulations might not be met if the
 28 plan were approved.

29 Any action by the Agency to disapprove or modify a
 30 plan or report or the rejection of any plan or report by
 31 operation of law shall be subject to appeal to the Board
 32 in accordance with the procedures of Section 40. If the
 33 owner or operator elects to incorporate modifications
 34 required by the Agency rather than appeal, an amended

1 plan shall be submitted to the Agency within 35 days of
2 receipt of the Agency's written notification.

3 (5) ~~(E)~~ For purposes of this Title, the term "plan"
4 shall include:

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

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

9 ~~(i) Any physical soil classification and~~
10 ~~groundwater investigation plan submitted~~
11 ~~pursuant to item (1)(A) of subsection (a) of~~
12 ~~this Section, or budget under item (2) of~~
13 ~~subsection (a) of this Section;~~

14 ~~(ii) Any groundwater monitoring plan or~~
15 ~~budget submitted pursuant to subsection~~
16 ~~(e)(2)(B) of this Section;~~

17 (C) (iii) Any corrective action plan submitted
18 pursuant to subsection (b) ~~(e)(1)(A)~~ of this
19 Section; or

20 (D) (iv) Any corrective action plan budget
21 submitted pursuant to subsection (b) ~~(e)(1)(B)~~ of
22 this Section.

23 (d) For purposes of this Title, the term "indicator
24 contaminant" shall mean, unless and until the Board
25 promulgates regulations to the contrary, the following: (i)
26 if an underground storage tank contains gasoline, the
27 indicator parameter shall be BTEX and Benzene; (ii) if the
28 tank contained petroleum products consisting of middle
29 distillate or heavy ends, then the indicator parameter shall
30 be determined by a scan of PNA's taken from the location
31 where contamination is most likely to be present; and (iii)
32 if the tank contained used oil, then the indicator
33 contaminant shall be those chemical constituents which
34 indicate the type of petroleum stored in an underground

1 storage tank. All references in this Title to groundwater
2 objectives shall mean Class I groundwater standards or
3 objectives as applicable.

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

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

26 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff.
27 1-1-96; 89-457, eff. 5-22-96.)

28 (415 ILCS 5/57.8)

29 Sec. 57.8. Underground Storage Tank Fund; payment;
30 options for State payment; deferred correction election to
31 commence corrective action upon availability of funds. If an
32 owner or operator is eligible to access the Underground
33 Storage Tank Fund pursuant to an Office of State Fire Marshal

1 eligibility/deductible final determination letter issued in
2 accordance with Section 57.9, the owner or operator may
3 submit a complete application for final or partial payment to
4 the Agency for activities taken in response to a confirmed
5 release. An owner or operator may submit a request for
6 partial or final payment regarding a site no more frequently
7 than once every 90 days.

8 (a) Payment after completion of corrective action
9 measures. The owner or operator may submit an application for
10 payment for activities performed at a site after completion
11 of the requirements of Sections 57.6 and 57.7, or after
12 completion of any other required activities at the
13 underground storage tank site.

14 (1) In the case of any approved plan and budget for
15 which payment is being sought, the Agency shall make a
16 payment determination within 120 days of receipt of the
17 application. Such determination shall be considered a
18 final decision. The Agency's review shall be limited to
19 generally accepted auditing and accounting practices. In
20 no case shall the Agency conduct additional review of any
21 plan which was completed within the budget, beyond
22 auditing for adherence to the corrective action measures
23 in the proposal. If the Agency fails to approve the
24 payment application within 120 days, such application
25 shall be deemed approved by operation of law and the
26 Agency shall proceed to reimburse the owner or operator
27 the amount requested in the payment application.
28 However, in no event shall the Agency reimburse the owner
29 or operator an amount greater than the amount approved in
30 the plan.

31 (2) If sufficient funds are available in the
32 Underground Storage Tank Fund, the Agency shall, within
33 60 days, forward to the Office of the State Comptroller a
34 voucher in the amount approved under the payment

1 application.

2 (3) In the case of insufficient funds, the Agency
3 shall form a priority list for payment and shall notify
4 persons in such priority list monthly of the availability
5 of funds and when payment shall be made. Payment shall
6 be made to the owner or operator at such time as
7 sufficient funds become available for the costs
8 associated with site investigation and corrective action
9 and costs expended for activities performed where no
10 proposal is required, if applicable. Such priority list
11 shall be available to any owner or operator upon request.
12 Priority for payment shall be determined by the date the
13 Agency receives a complete request for partial or final
14 payment. Upon receipt of notification from the Agency
15 that the requirements of this Title have been met, the
16 Comptroller shall make payment to the owner or operator
17 of the amount approved by the Agency, if sufficient money
18 exists in the Fund. If there is insufficient money in
19 the Fund, then payment shall not be made. If the owner
20 or operator appeals a final Agency payment determination
21 and it is determined that the owner or operator is
22 eligible for payment or additional payment, the priority
23 date for the payment or additional payment shall be the
24 same as the priority date assigned to the original
25 request for partial or final payment.

26 (4) Any deductible, as determined pursuant to the
27 Office of the State Fire Marshal's eligibility and
28 deductibility final determination in accordance with
29 Section 57.9, shall be subtracted from any payment
30 invoice paid to an eligible owner or operator. Only one
31 deductible shall apply per underground storage tank site.

32 (5) In the event that costs are or will be incurred
33 in addition to those approved by the Agency, or after
34 payment, the owner or operator may submit successive

1 plans containing amended budgets. The requirements of
2 Section 57.7 shall apply to any amended plans.

3 (6) For purposes of this Section, a complete
4 application shall consist of:

5 (A) A certification from a Licensed
6 Professional Engineer as required under this Title
7 and acknowledged by the owner or operator.

8 (B) A statement of the amounts amount approved
9 in the budget plan and the amounts amount actually
10 sought for payment along with a certified statement
11 by the owner or operator that the amounts amount so
12 sought were shall-be expended in conformance with
13 the approved budget.

14 (C) A copy of the Office of the State Fire
15 Marshal's eligibility and deductibility
16 determination.

17 (D) Proof that approval of the payment
18 requested will not result in the limitations set
19 forth in subsection (g) of this Section being
20 exceeded.

21 (E) A federal taxpayer identification number
22 and legal status disclosure certification on a form
23 prescribed and provided by the Agency.

24 (b) Commencement of site investigation or corrective
25 action upon availability of funds. The Board shall adopt
26 regulations setting forth procedures based on risk to human
27 health or the environment under which the owner or operator
28 who has received approval for any budget plan submitted
29 pursuant to Section 57.7, and who is eligible for payment
30 from the Underground Storage Tank Fund pursuant to an Office
31 of the State Fire Marshal eligibility and deductibility
32 determination, may elect to defer site investigation or
33 corrective action classification,--low--priority--groundwater
34 monitoring,---or---remediation activities until funds are

1 available in an amount equal to the amount approved in the
2 budget plan. The regulations shall establish criteria based
3 on risk to human health or the environment to be used for
4 determining on a site-by-site basis whether deferral is
5 appropriate. The regulations also shall establish the
6 minimum investigatory requirements for determining whether
7 the risk based criteria are present at a site considering
8 deferral and procedures for the notification of owners or
9 operators of insufficient funds, Agency review of request for
10 deferral, notification of Agency final decisions, returning
11 deferred sites to active status, and earmarking of funds for
12 payment.

13 (c) When the owner or operator requests indemnification
14 for payment of costs incurred as a result of a release of
15 petroleum from an underground storage tank, if the owner or
16 operator has satisfied the requirements of subsection (a) of
17 this Section, the Agency shall forward a copy of the request
18 to the Attorney General. The Attorney General shall review
19 and approve the request for indemnification if:

20 (1) there is a legally enforceable judgment entered
21 against the owner or operator and such judgment was
22 entered due to harm caused by a release of petroleum from
23 an underground storage tank and such judgment was not
24 entered as a result of fraud; or

25 (2) a settlement with a third party due to a
26 release of petroleum from an underground storage tank is
27 reasonable.

28 (d) Notwithstanding any other provision of this Title,
29 the Agency shall not approve payment to an owner or operator
30 from the Fund for costs of corrective action or
31 indemnification incurred during a calendar year in excess of
32 the following aggregate amounts based on the number of
33 petroleum underground storage tanks owned or operated by such
34 owner or operator in Illinois.

1	Amount	Number of Tanks
2	\$1,000,000.....	fewer than 101
3	<u>\$3,000,000</u> \$2,000,000.....	101 or more

4 (1) Costs incurred in excess of the aggregate
5 amounts set forth in paragraph (1) of this subsection
6 shall not be eligible for payment in subsequent years.

7 (2) For purposes of this subsection, requests
8 submitted by any of the agencies, departments, boards,
9 committees or commissions of the State of Illinois shall
10 be acted upon as claims from a single owner or operator.

11 (3) For purposes of this subsection, owner or
12 operator includes (i) any subsidiary, parent, or joint
13 stock company of the owner or operator and (ii) any
14 company owned by any parent, subsidiary, or joint stock
15 company of the owner or operator.

16 (e) Costs of corrective action or indemnification
17 incurred by an owner or operator which have been paid to an
18 owner or operator under a policy of insurance, another
19 written agreement, or a court order are not eligible for
20 payment under this Section. An owner or operator who
21 receives payment under a policy of insurance, another written
22 agreement, or a court order shall reimburse the State to the
23 extent such payment covers costs for which payment was
24 received from the Fund. Any monies received by the State
25 under this subsection (e) shall be deposited into the Fund.

26 (f) Until the Board adopts regulations pursuant to
27 Section 57.14, handling charges are eligible for payment only
28 if they are equal to or less than the amount determined by
29 the following table:

30	Subcontract or field	Eligible Handling Charges
31	Purchase Cost	as a Percentage of Cost
32	\$0 - \$5,000.....	12%
33	\$5,001 - \$15,000.....	\$600+10% of amt. over \$5,000
34	\$15,001 - \$50,000.....	\$1600+8% of amt. over \$15,000

1 \$50,001 - \$100,000.....\$4400+5% of amt. over \$50,000
 2 \$100,001 - \$1,000,000.....\$6900+2% of amt. over \$100,000

3 (g) The Agency shall not approve any payment from the
 4 Fund to pay an owner or operator:

5 (1) for costs of corrective action incurred by such
 6 owner or operator in an amount in excess of \$1,000,000
 7 per occurrence; and

8 (2) for costs of indemnification of such owner or
 9 operator in an amount in excess of \$1,000,000 per
 10 occurrence.

11 (h) Payment of any amount from the Fund for corrective
 12 action or indemnification shall be subject to the State
 13 acquiring by subrogation the rights of any owner, operator,
 14 or other person to recover the costs of corrective action or
 15 indemnification for which the Fund has compensated such
 16 owner, operator, or person from the person responsible or
 17 liable for the release.

18 (i) If the Agency refuses to pay or authorizes only a
 19 partial payment, the affected owner or operator may petition
 20 the Board for a hearing in the manner provided for the review
 21 of permit decisions in Section 40 of this Act.

22 (j) Costs of corrective action or indemnification
 23 incurred by an owner or operator prior to July 28, 1989,
 24 shall not be eligible for payment or reimbursement under this
 25 Section.

26 (k) The Agency shall not pay costs of corrective action
 27 or indemnification incurred before providing notification of
 28 the release of petroleum in accordance with the provisions of
 29 this Title.

30 (l) Corrective action does not include legal defense
 31 costs. Legal defense costs include legal costs for seeking
 32 payment under this Title unless the owner or operator
 33 prevails before the Board in which case the Board may
 34 authorize payment of legal fees.

1 (m) The Agency may apportion payment of costs for plans
2 submitted under Section 57.7 57.7(e)(4)(E)(iii) if:

3 (1) the owner or operator was deemed eligible to
4 access the Fund for payment of corrective action costs
5 for some, but not all, of the underground storage tanks
6 at the site; and

7 (2) the owner or operator failed to justify all
8 costs attributable to each underground storage tank at
9 the site.

10 (n) The Agency shall not pay costs associated with a
11 corrective action plan incurred after the Agency provides
12 notification to the owner or operator pursuant to item (7) of
13 subsection (b) of Section 57.7 that a revised corrective
14 action plan is required. Costs associated with any
15 subsequently approved corrective action plan shall be
16 eligible for reimbursement if they meet the requirements of
17 this Title.

18 (Source: P.A. 91-357, eff. 7-29-99.)

19 (415 ILCS 5/57.10)

20 Sec. 57.10. Professional Engineer certification;
21 presumptions against liability.

22 (a) Within 120 days of the Agency's receipt of a No
23 ~~Further-Action-site-classification-report,--a--Low--Priority~~
24 ~~groundwater--monitoring-report,--or-a-High-Priority~~ corrective
25 action completion report, the Agency shall issue to the owner
26 or operator a "no further remediation letter" unless the
27 Agency has requested a modification, issued a rejection under
28 subsection (d) of this Section, or the report has been
29 rejected by operation of law.

30 (b) By certifying such a statement, a Licensed
31 Professional Engineer shall in no way be liable thereon,
32 unless the engineer gave such certification despite his or
33 her actual knowledge that the performed measures were not in

1 compliance with applicable statutory or regulatory
2 requirements or any plan submitted to the Agency.

3 (c) The Agency's issuance of a no further remediation
4 letter shall signify, based on the certification of the
5 Licensed Professional Engineer, that:

6 (1) all statutory and regulatory corrective
7 action requirements applicable to the occurrence have
8 been complied with;

9 (2) all corrective action concerning the
10 remediation of the occurrence has been completed; and

11 (3) no further corrective action concerning the
12 occurrence is necessary for the protection of human
13 health, safety and the environment.

14 (d) The no further remediation letter issued under this
15 Section shall apply in favor of the following parties:

16 (1) The owner or operator to whom the letter was
17 issued.

18 (2) Any parent corporation or subsidiary of such
19 owner or operator.

20 (3) Any co-owner or co-operator, either by joint
21 tenancy, right-of-survivorship, or any other party
22 sharing a legal relationship with the owner or operator
23 to whom the letter is issued.

24 (4) Any holder of a beneficial interest of a land
25 trust or inter vivos trust whether revocable or
26 irrevocable.

27 (5) Any mortgagee or trustee of a deed of trust of
28 such owner or operator.

29 (6) Any successor-in-interest of such owner or
30 operator.

31 (7) Any transferee of such owner or operator
32 whether the transfer was by sale, bankruptcy proceeding,
33 partition, dissolution of marriage, settlement or
34 adjudication of any civil action, charitable gift, or

1 bequest.

2 (8) Any heir or devisee or such owner or operator.

3 (e) If the Agency notifies the owner or operator that
4 the "no further remediation" letter has been rejected, the
5 grounds for such rejection shall be described in the notice.
6 Such a decision shall be a final determination which may be
7 appealed by the owner or operator.

8 (f) The Board shall adopt rules setting forth the
9 criteria under which the Agency may require an owner or
10 operator to conduct further investigation or remediation
11 related to a release for which a no further remediation
12 letter has been issued.

13 (g) Holders of security interests in sites subject to
14 the requirements of this Title XVI shall be entitled to the
15 same protections and subject to the same responsibilities
16 provided under general regulations promulgated under Subtitle
17 I of the Hazardous and Solid Waste Amendments of 1984 (P.L.
18 98-616) of the Resource Conservation and Recovery Act of 1976
19 (P.L. 94-580).

20 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
21 5-22-96.)

22 (415 ILCS 5/57.13)

23 Sec. 57.13. Underground Storage Tank Program; transition.

24 (a) If a release is reported to the proper State
25 authority on or after the effective date of this amendatory
26 Act of 2001 1993, the owner or operator shall comply with the
27 requirements of this Title.

28 (b) If a release is reported to the proper State
29 authority prior to the effective date of this amendatory Act
30 of 2001 1993, the owner or operator of an underground storage
31 tank may elect to proceed in accordance with the requirements
32 of this Title by submitting a written statement to the Agency
33 of such election. If the owner or operator elects to proceed

1 under the requirements of this Title all costs incurred in
 2 connection with the incident prior to notification shall be
 3 reimbursable in the same manner as was allowable under the
 4 then existing law. Completion of corrective action shall then
 5 follow the provisions of this Title. Owners and operators who
 6 have not elected to proceed in accordance with the
 7 requirements of this Title shall proceed in accordance with
 8 the law in effect prior to the effective date of this
 9 amendatory Act of 2001.

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

11 (415 ILCS 5/57.14A new)

12 Sec. 57.14A. Rules.

13 (a) The Agency shall propose and the Board shall adopt
 14 amendments to the rules governing the administration of this
 15 Title to make the rules consistent with the provisions
 16 herein.

17 (b) Until such time as the amended rules required under
 18 this Section take effect, the Agency shall administer this
 19 Title in accordance with the provisions herein.

20 Section 10. The Environmental Impact Fee Law is
 21 amended by changing Section 390 as follows:

22 (415 ILCS 125/390)

23 (Section scheduled to be repealed on January 1, 2003)

24 Sec. 390. Repeal. This Article is repealed on January
 25 1, 2013 2003.

26 (Source: P.A. 89-428, eff. 1-1-96; 89-457, eff. 5-22-96.)

27 Section 99. Effective date. This Act takes effect upon
 28 becoming law."