

1 AN ACT concerning environmental protection.

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
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
23 classification,-----groundwater-----investigation,-----site
24 classification or corrective action may be eligible for the
25 relief provided for under Section 57.10 of this Title.

26 (d) The owners or operators, or both, of underground
27 storage tanks containing regulated substances other than
28 petroleum shall undertake corrective action in conformance
29 with regulations promulgated by the Illinois Pollution
30 Control Board.

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

1 5-22-96.)

2 (415 ILCS 5/57.2)

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

4 "Audit" means a systematic inspection or examination of
5 plans, reports, records, or documents to determine the
6 completeness and accuracy of the data and conclusions
7 contained therein.

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

11 "Release" means any spilling, leaking, emitting,
12 discharging, escaping, leaching or disposing of petroleum
13 from an underground storage tank into groundwater, surface
14 water or subsurface soils.

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

17 "Fund" means the Underground Storage Tank Fund.

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

22 "Indemnification" means indemnification of an owner or
23 operator for the amount of any judgment entered against the
24 owner or operator in a court of law, for the amount of any
25 final order or determination made against the owner or
26 operator by an agency of State government or any subdivision
27 thereof, or for the amount of any settlement entered into by
28 the owner or operator, if the judgment, order, determination,
29 or settlement arises out of bodily injury or property damage
30 suffered as a result of a release of petroleum from an
31 underground storage tank owned or operated by the owner or
32 operator.

33 "Corrective action" means activities associated with

1 compliance with the provisions of Sections 57.6 and 57.7 of
2 this Title.

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

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

17 "Licensed Professional Engineer" means a person,
18 corporation, or partnership licensed under the laws of the
19 State of Illinois to practice professional engineering.

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

23 "Site investigation" means activities associated with
24 compliance with the provisions of subsection (a) of Section
25 57.7.

26 ~~"Physical--soil--classification"--means--verification--that~~
27 ~~subsurface--strata--are--as--generally--mapped--in--the--publication~~
28 ~~Illinois--Geological--Survey--Circular--(1984)--titled--"Potential~~
29 ~~for--Contamination--of--Shallow--Aquifers--in--Illinois,"--by--Berg,~~
30 ~~Richard--C.,--et--al.,--Such--classification--may--include--review--of~~
31 ~~soil--borings,--well--logs,--physical--soil--analyses,--regional~~
32 ~~geologic--maps,--or--other--scientific--publications.~~

33 "Property damage" means physical injury to, destruction
34 of, or contamination of tangible property, including all

1 resulting loss of use of that property; or loss of use of
2 tangible property that is not physically injured, destroyed,
3 or contaminated, but has been evacuated, withdrawn from use,
4 or rendered inaccessible because of a release of petroleum
5 from an underground storage tank.

6 "Class I Groundwater" means groundwater that meets the
7 Class I: Potable Resource Groundwater criteria set forth in
8 the Board regulations adopted pursuant to the Illinois
9 Groundwater Protection Act.

10 "Class III Groundwater" means groundwater that meets the
11 Class III: Special Resource Groundwater criteria set forth
12 in the Board regulations adopted pursuant to the Illinois
13 Groundwater Protection Act.

14 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
15 5-22-96.)

16 (415 ILCS 5/57.5)

17 Sec. 57.5. Underground Storage Tanks; removal; repair;
18 abandonment.

19 (a) Notwithstanding the eligibility or the level of
20 deductibility of an owner or operator under the Underground
21 Storage Tank Fund, any owner or operator of an Underground
22 Storage Tank may seek to remove or abandon such tank under
23 the provisions of this Title. In order to be reimbursed
24 under Section 57.8, the owner or operator must comply with
25 the provisions of this Title. In no event will an owner or
26 operator be reimbursed for any costs which exceed the minimum
27 requirements necessary to comply with this Title.

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

31 (c) The Office of the State Fire Marshal or a designated
32 agent shall have an inspector on site at the time of removal,
33 abandonment, or such other times the Office of State Fire

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

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

32 (e) In the event that an Underground Storage Tank is
33 found to be ineligible for payment from the Underground
34 Storage Tank Fund, the owner or operator shall proceed under

1 Sections 57.6 and 57.7.

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

22 (g) The owner or operator of an underground storage tank
23 taken out of operation before January 2, 1974, or an
24 underground storage tank used exclusively to store heating
25 oil for consumptive use on the premises where stored and
26 which serves other than a farm or residential unit shall not
27 be required to remove or abandon in place such underground
28 storage tank except in the case in which the Office of the
29 State Fire Marshal has determined that a release from the
30 underground storage tank poses a current or potential threat
31 to human health and the environment. In that case, and upon
32 receipt of an order from the Office of the State Fire
33 Marshal, the owner or operator of such underground storage
34 tank shall conduct removal and, if necessary, site

1 investigation and corrective action in accordance with this
2 Title and regulations promulgated by the Office of State Fire
3 Marshal and the Board.

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

24 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
25 5-22-96.)

26 (415 ILCS 5/57.6)

27 Sec. 57.6. Underground storage tanks; early action.

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

32 (b) Notwithstanding any other corrective action taken,
33 an owner or operator may, at a minimum, and prior to

1 submission of any plans to the Agency, remove the tank system
2 or abandon the underground storage tank in place, in
3 accordance with the regulations promulgated by the Office of
4 the State Fire Marshal. The owner or operator may also
5 remove visibly contaminated fill material and any groundwater
6 in the excavation which exhibits a sheen. For purposes of
7 payment for early action costs, however, fill material shall
8 not be removed in an amount in excess of 4 feet from the
9 outside dimensions of the tank.

10 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
11 5-22-96.)

12 (415 ILCS 5/57.7)

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

16 (a) Site investigation.

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

26 (2) Any owner or operator intending to seek payment
27 from the Fund shall submit to the Agency for approval a
28 site investigation budget that includes, but is not
29 limited to, an accounting of all costs associated with
30 the implementation and completion of the site
31 investigation plan.

32 (3) Remediation objectives for the applicable
33 indicator contaminants shall be determined using the

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

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

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

17 (A) Executive summary.

18 (B) Site history.

19 (C) Site-specific sampling methods and
20 results.

21 (D) Documentation of all field activities,
22 including quality assurance.

23 (E) Documentation regarding the development of
24 proposed remediation objectives.

25 (F) Interpretation of results.

26 (G) Conclusions.

27 (b) Corrective action.

28 (1) If the site investigation confirms none of the
29 applicable indicator contaminants exceed the proposed
30 remediation objectives, within 30 days after completing
31 the site investigation the owner or operator shall submit
32 to the Agency for approval a corrective action completion
33 report in accordance with this Section.

34 (2) If any of the applicable indicator contaminants

1 exceed the remediation objectives approved for the site,
2 within 30 days after the Agency approves the site
3 investigation completion report the owner or operator
4 shall submit to the Agency for approval a corrective
5 action plan designed to mitigate any threat to human
6 health, human safety, or the environment resulting from
7 the underground storage tank release. The plan shall
8 describe the selected remedy and evaluate its ability and
9 effectiveness to achieve the remediation objectives
10 approved for the site. At a minimum, the report shall
11 include all of the following:

12 (A) Executive summary.

13 (B) Statement of remediation objectives.

14 (C) Remedial technologies selected.

15 (D) Confirmation sampling plan.

16 (E) Current and projected future use of the
17 property.

18 (F) Applicable preventive, engineering, and
19 institutional controls including long-term
20 reliability, operating, and maintenance plans, and
21 monitoring procedures.

22 (G) A schedule for implementation and
23 completion of the plan.

24 (3) Any owner or operator intending to seek payment
25 from the Fund shall submit to the Agency for approval a
26 corrective action budget that includes, but is not
27 limited to, an accounting of all costs associated with
28 the implementation and completion of the corrective
29 action plan.

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

34 (5) Within 30 days after the completion of a

1 corrective action plan that achieves applicable
 2 remediation objectives the owner or operator shall submit
 3 to the Agency for approval a corrective action completion
 4 report. The report shall demonstrate whether corrective
 5 action was completed in accordance with the approved
 6 corrective action plan and whether the remediation
 7 objectives approved for the site, as well as any other
 8 requirements of the plan, have been achieved.

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

21 (7) If the Agency determines any approved
 22 corrective action plan will not achieve applicable
 23 remediation objectives within a reasonable time, based
 24 upon the method of remediation and site specific
 25 circumstances, the Agency may require the owner or
 26 operator to submit to the Agency for approval a revised
 27 corrective action plan. If the owner or operator intends
 28 to seek payment from the Fund, the owner or operator must
 29 also submit a revised budget.

30 ~~(a) Physical soil classification and groundwater~~
 31 ~~investigation.~~

32 ~~(1) Prior to conducting any physical soil~~
 33 ~~classification and groundwater investigation activities~~
 34 ~~required by statute or regulation, the owner or operator~~

1 shall--prepare--and-submit-to-the-Agency-for-the-Agency's
2 approval-or-modification:

3 (A)--a-physical--soil--classification--and
4 groundwater---investigation--plan--designed--to
5 determine-site--classification,--in--accordance
6 with--subsection--(b)--of-this-Section,--as-High
7 Priority,--Low-Priority,--or-No-Further-Action.

8 (B)--a--request--for--payment---of---costs
9 associated--with-eligible-early-action-costs-as
10 provided--in--Section--57.6(b).---However,--for
11 purposes-of-payment--for--early--action--costs,
12 fill--materials--shall--not--be--removed--in-an
13 amount-in-excess-of-4--feet--from--the--outside
14 dimensions-of-the-tank.

15 (2)--If--the--owner--or--operator--intends--to--seek
16 payment--from--the-Fund,--prior-to-conducting-any-physical
17 soil---classification---and---groundwater---investigation
18 activities-required-by-statute-or-regulation,--the--owner
19 or--operator--shall-submit-to-the-Agency-for-the-Agency's
20 approval-or---modification-a-physical-soil-classification
21 and-groundwater-investigation-budget-which-includes,--but
22 is--not-limited-to,--an-accounting-of-all-costs-associated
23 with-the-implementation-and-completion--of--the--physical
24 soil-classification-and-groundwater-investigation-plan.

25 (3)--Within--30--days--of-completion-of-the-physical
26 soil-classification-or-groundwater--investigation--report
27 the-owner-or-operator-shall-submit-to-the-Agency:

28 (A)--all---physical---soil--classification--and
29 groundwater-investigation-results;-and

30 (B)--a-certification-by-a-Licensed-Professional
31 Engineer--of--the--site's--classification--as---High
32 Priority,--Low--Priority,--or--No--Further-Action-in
33 accordance-with-subsection-(b)-of--this--Section--as
34 High-Priority,--Low-Priority,--or-No-Further-Action.

1 (b)--Site-Classification-

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

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

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

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

38 (iii)--The-conditions-identified-in-subsections
39 (b)-(3)(B),
40 (C),
41 (D),
42 and-(E)-do-not-exist.

43 (B)--Groundwater-investigation--monitoring--may
44 be--required--to--confirm--that--a--site--meets--the
45 criteria--of--a--No--Further--Action-site.--The-Board
46 shall-adopt-rules-setting-forth-the-criteria--under

1 which--the--Agency--may--exercise--its-discretionary
 2 authority-to-require-investigations-and-the--minimum
 3 field-requirements-for-conducting-investigations.

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

6 (A)--The-site-is-located-in-an-area--designated
 7 A1,-A2,-A3,-A4,-A5,-AX,-B1,-B2,-BX,-C1,-C2,-C3,-C4,
 8 or-C5-on-the--Illinois--Geological--Survey--Circular
 9 (1984)---titled---"Potential--for--Contamination--of
 10 Shallow-Aquifers-in-Illinois,"-by-Berg,-Richard--C.,
 11 et--al.;--a-site-evaluation-under-the-direction-of-a
 12 Licensed-Professional-Engineer-verifies-the-physical
 13 soil-classifications-conditions-are-consistent--with
 14 those--indicated--on--the-Illinois-Geological-Survey
 15 Circular---(1984)---entitled---"Potential----for
 16 Contamination--of--Shallow-Aquifers-in-Illinois,"-by
 17 Berg,-Richard-C.,-et-al.;-and--the--results--of--the
 18 physical---soil---classification---and---groundwater
 19 investigation--indicate-that-an-applicable-indicator
 20 contaminant---groundwater---quality---standard---or
 21 groundwater--objective--has--been--exceeded--at--the
 22 property--boundary---line--or--200--feet--from--the
 23 excavation,-whichever-is-less-as--a--consequence--of
 24 the-underground-storage-tank-release.

25 (B)--The-underground-storage-tank-is-within-the
 26 minimum--or--maximum-setback-zone-of-a-potable-water
 27 supply-well-or-regulated-recharge-area-of-a--potable
 28 water-supply-well.

29 (C)--There-is-evidence-that,-through-natural-or
 30 manmade--pathways,-migration-of-petroleum-or-vapors
 31 threaten-human-health-or-human-safety-or--may--cause
 32 explosions---in--basements,-crawl--spaces,-utility
 33 conduits,-storm-or-sanitary-sewers,-vaults-or--other
 34 confined-spaces.

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

3 (E)--A-surface-water-body-is-adversely-affected
4 by--the--presence-of-a-visible-sheen-or-free-product
5 layer-as-the-result-of-an-underground--storage--tank
6 release.

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

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

11 (B)--(i)--The-site-is-located-in-area-designated
12 A1₇-A2₇-A3₇-A4₇-A5₇-AX₇-B1₇-B2₇-BX₇-C1₇-C2₇-C3₇--C4₇
13 C5-on-the-Illinois-Geological-Survey-Circular-(1984)
14 entitled--"Potential--for--Contamination--of-Shallow
15 Aquifers-in-Illinois₇"-by-Berg₇-Richard-C.₇-et--al.₇;
16 and

17 (ii)--a--site-evaluation-under-the-direction-of
18 a--Licensed--Professional--Engineer---verifies---the
19 physical---soil---classification---conditions---are
20 consistent-with--those--indicated--on--the--Illinois
21 Geological--Survey-Circular-(1984)-titled-"Potential
22 for-Contamination-of-Shallow-Aquifers-in--Illinois₇"
23 by-Berg₇-Richard-C.₇-et-al.₇;--and

24 (iii)--the---results---of---the--physical--soil
25 classification-and-groundwater-investigation-do--not
26 indicate---an---applicable---indicator---contaminant
27 groundwater---quality---standard---or---groundwater
28 objective-has-been-exceeded-at-the-property-boundary
29 line-or-200-feet-from-the-underground-storage--tank₇
30 whichever-is-less.

31 (5)--In--the--event-the-results-of-the-physical-soil
32 classification-and-any-required-groundwater-investigation
33 reveal-that-the-actual-site-geologic-characteristics--are
34 different-than-those-indicated-by-the-Illinois-Geological

1 Survey---Circular---(1984)---titled---"Potential---for
 2 Contamination-of-Shallow-Aquifers-in-Illinois"--by--Berg,
 3 Richard--C.,--et-al.,--classification-of-the-site-shall-be
 4 determined---using---the---actual---site---geologic
 5 characteristics.

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

(e)--Corrective-Action.

(1)--High-Priority-Site.

(A)--Prior-to--performance--of--any--corrective
 13 action,
 14 beyond--that--required--by--Section-57.6-and
 15 subsection-(a)-of-Section--57.7--of--this--Act,
 16 the
 17 owner--or--operator--shall-prepare-and-submit-to-the
 18 Agency-for-the-Agency's-approval-or--modification--a
 19 corrective--action--plan--designed--to--mitigate-any
 20 threat--to--human--health,
 21 human--safety--or--the
 22 environment--resulting--from-the-underground-storage
 23 tank-release.

(B)--If-the-owner-or-operator-intends--to--seek
 23 payment--from--the-Fund,
 24 prior-to-performance-of-any
 25 corrective-action-beyond-that--required--by--Section
 26 57.6--and--subsection-(a)-of-Section-57.7,
 27 the-owner
 28 or-operator-shall--submit--to--the--Agency--for--the
 29 Agency's--approval--or--modification--a--corrective
 30 action--plan--budget--which--includes,
 31 but--is--not
 32 limited-to,
 33 an-accounting-of--all--costs--associated
 34 with--the--implementation--and--completion--of--the
 35 corrective-action-plan.

(C)--The-corrective-action-plan-shall-do-all-of
 32 the-following:

(i)--Provide--that--applicable---indicator

1 contaminant--groundwater--quality--standards--or
2 groundwater--objectives--will--not--be--exceeded--in
3 groundwater--at--the--property--boundary--line--or
4 200--feet--from--the--excavation,--whichever--is
5 less,--or--other--level--if--approved--by--the--Agency,
6 for--any--contaminant--identified--in--the
7 groundwater--investigation--after--complete
8 performance--of--the--corrective--action--plan.

9 (ii)--Provide--that--Class--III--special
10 resource--groundwater--quality--standards--for
11 Class--III--special--resource--groundwater--within
12 200--feet--of--the--excavation--will--not--be--exceeded
13 as--a--result--of--the--underground--storage--tank
14 release--for--any--indicator--contaminant
15 identified--in--the--groundwater--investigation
16 after--complete--performance--of--the--corrective
17 action--plan.

18 (iii)--Remediate--threats--due--to--the
19 presence--or--migration,--through--natural--or
20 manmade--pathways,--of--petroleum--in
21 concentrations--sufficient--to--harm--human--health
22 or--human--safety--or--to--cause--explosions--in
23 basements,--crawl--spaces,--utility--conduits,
24 storm--or--sanitary--sewers,--vaults--or--other
25 confined--spaces.

26 (iv)--Remediate--threats--to--a--potable--water
27 supply.

28 (v)--Remediate--threats--to--a--surface--water
29 body.

30 (D)--Within--30--days--of--completion--of--the
31 corrective--action,--the--owner--or--operator--shall
32 submit--to--the--Agency--such--a--completion--report--that
33 includes--a--description--of--the--corrective--action--plan
34 and--a--description--of--the--corrective--action--work

1 performed--and--all--analytical--or--sampling--results
2 derived--from--performance--of--the--corrective--action
3 plan.

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

- 8 (i)--The--corrective--action--completion
- 9 report--demonstrates--that:--(a)--applicable
- 10 indicator--contaminant--groundwater--quality
- 11 standards--or--groundwater--objectives--are--not
- 12 exceeded--at--the--property--boundary--line--or--200
- 13 feet--from--the--excavation,--whichever--is--less,--as
- 14 a--result--of--the--underground--storage--tank
- 15 release--for--any--indicator--contaminant
- 16 identified--in--the--groundwater--investigation;
- 17 (b)--Class--III--special--use--resource--groundwater
- 18 quality--standards,--for--Class--III--special--use
- 19 resource--groundwater--within--200--feet--of--the
- 20 underground--storage--tank,--are--not--exceeded--as--a
- 21 result--of--the--underground--storage--tank--release
- 22 for--any--contaminant--identified--in--the
- 23 groundwater--investigation;--(c)--the--underground
- 24 storage--tank--release--does--not--threaten--human
- 25 health--or--human--safety--due--to--the--presence--or
- 26 migration,--through--natural--or--manmade--pathways,
- 27 of--petroleum--or--hazardous--substances--in
- 28 concentrations--sufficient--to--harm--human--health
- 29 or--human--safety--or--to--cause--explosions--in
- 30 basements,--crawl--spaces,--utility--conduits,
- 31 storm--or--sanitary--sewers,--vaults--or--other
- 32 confined--spaces;--(d)--the--underground--storage
- 33 tank--release--does--not--threaten--any--surface
- 34 water--body;--and--(e)--the--underground--storage

1 tank--release--does--not--threaten--any-potable
2 water-supply.

3 (ii)--The-owner-or-operator-submits-to-the
4 Agency--a---certification---from---a---Licensed
5 Professional--Engineer--that-the-work-described
6 in-the-approved-corrective-action-plan-has-been
7 completed-and-that-the-information-presented-in
8 the--corrective--action--completion--report--is
9 accurate-and-complete.

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

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

14 (B)--Prior--to--implementation--of--groundwater
15 monitoring, the-owner-or-operator-shall-prepare--and
16 submit--to--the-Agency-a-groundwater-monitoring-plan
17 and, if--the--owner--or--operator--intends--to--seek
18 payment-under-this-Title, an-associated-budget-which
19 includes, at-a-minimum, all-of-the-following:

20 (i)--Placement--of--groundwater-monitoring
21 wells-at-the-property-line, or-at-200-feet-from
22 the-excavation-which-ever-is--closer,--designed
23 to-provide-the-greatest-likelihood-of-detecting
24 migration-of-groundwater-contamination.

25 (ii)--Quarterly-groundwater-sampling-for-a
26 period--of--one--year, semi-annual-sampling-for
27 the-second-year-and-annual-groundwater-sampling
28 for--one--subsequent--year--for--all--indicator
29 contaminants-identified-during-the--groundwater
30 investigation.

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

33 (C)--If--at--any--time--groundwater---sampling
34 results---indicate---a---confirmed---exceedence---of

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

21 (D)--If,--throughout-the-implementation--of--the
22 groundwater---monitoring---plan,---the---groundwater
23 sampling--results--do--not--confirm-an-exceedence-of
24 applicable-indicator-contaminant-groundwater-quality
25 standards-or-groundwater-objectives-as-a--result--of
26 the--underground--storage-tank-release,--the-owner-or
27 operator-shall-submit-to-the-Agency-a--certification
28 of-a-Licensed-Professional-Engineer-so-stating.

29 (E)--Unless---the--Agency--takes--action--under
30 subsection-(b)(2)(C)-to-reclassify-a--site--as--high
31 priority,--upon--receipt--of--a--certification--by-a
32 Licensed-Professional-Engineer-submitted-pursuant-to
33 paragraph-(2)-of-subsection-(c)-of-this-Section,--the
34 Agency-shall-issue-to-the-owner--or--operator--a--no

1 further---remediation---letter--in--accordance--with
2 Section-57.10-

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

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

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

21 (c) (4) Agency review and approval.

22 (1) (A) Agency approval of any plan and associated
23 budget, as described in this subsection (c) item--(4),
24 shall be considered final approval for purposes of
25 seeking and obtaining payment from the Underground
26 Storage Tank Fund if the costs associated with the
27 completion of any such plan are less than or equal to the
28 amounts approved in such budget.

29 (2) (B) In the event the Agency fails to approve,
30 disapprove, or modify any plan or report submitted
31 pursuant to this Title in writing within 120 days of the
32 receipt by the Agency, the plan or report shall be
33 considered to be rejected by operation of law for
34 purposes of this Title and rejected for purposes of

1 payment from the Leaking Underground Storage Tank Fund.

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

12 (B) (ii) For purposes of corrective action
13 these plans submitted pursuant to subsection (b) of
14 this Section Part (E) (iii) ~~of this paragraph (4)~~
15 for which payment from the Fund is not being sought,
16 the Agency need not take action on such plan until
17 120 days after it receives the corrective action
18 completion report required under subsection (b) of
19 this Section Section 57(e)(1)(D). In the event the
20 Agency approved the plan, it shall proceed under the
21 provisions of this subsection (c) ~~Section 57(e)(4)~~.

22 (3) (E) In approving any plan submitted pursuant to
23 subsection (a) or (b) of this Section Part (E) ~~of this~~
24 ~~paragraph (4)~~, the Agency shall determine, by a procedure
25 promulgated by the Board under ~~item (7) of subsection (b)~~
26 ~~of~~ Section 57.14, that the costs associated with the plan
27 are reasonable, will be incurred in the performance of
28 site investigation or corrective action, and will not be
29 used for site investigation or corrective action
30 activities in excess of those required to meet the
31 minimum requirements of this Title.

32 (4) (D) For any plan or report received after the
33 effective date of this amendatory Act of 2002 ~~1993~~, any
34 action by the Agency to disapprove or modify a plan

1 submitted pursuant to this Title shall be provided to the
 2 owner or operator in writing within 120 days of the
 3 receipt by the Agency or, in the case of a site
 4 investigation plan or corrective action plan for which
 5 payment is not being sought, within 120 days of receipt
 6 of the site investigation completion report or corrective
 7 action completion report, respectively, and shall be
 8 accompanied by:

9 (A) ~~(i)~~ an explanation of the Sections of this
 10 Act which may be violated if the plans were
 11 approved;

12 (B) ~~(ii)~~ an explanation of the provisions of
 13 the regulations, promulgated under this Act, which
 14 may be violated if the plan were approved;

15 (C) ~~(iii)~~ an explanation of the specific type
 16 of information, if any, which the Agency deems the
 17 applicant did not provide the Agency; and

18 (D) ~~(iv)~~ a statement of specific reasons why
 19 the Act and the regulations might not be met if the
 20 plan were approved.

21 Any action by the Agency to disapprove or modify a
 22 plan or report or the rejection of any plan or report by
 23 operation of law shall be subject to appeal to the Board
 24 in accordance with the procedures of Section 40. If the
 25 owner or operator elects to incorporate modifications
 26 required by the Agency rather than appeal, an amended
 27 plan shall be submitted to the Agency within 35 days of
 28 receipt of the Agency's written notification.

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

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

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

1 ~~(i) Any physical soil classification and~~
 2 ~~groundwater investigation plan submitted~~
 3 ~~pursuant to item (1)(A) of subsection (a) of~~
 4 ~~this Section, or budget under item (2) of~~
 5 ~~subsection (a) of this Section;~~

6 ~~(ii) Any groundwater monitoring plan or~~
 7 ~~budget submitted pursuant to subsection~~
 8 ~~(e)(2)(B) of this Section;~~

9 (C) (iii) Any corrective action plan submitted
 10 pursuant to subsection (b) ~~(e)(1)(A)~~ of this
 11 Section; or

12 (D) (iv) Any corrective action plan budget
 13 submitted pursuant to subsection (b) ~~(e)(1)(B)~~ of
 14 this Section.

15 (d) For purposes of this Title, the term "indicator
 16 contaminant" shall mean, unless and until the Board
 17 promulgates regulations to the contrary, the following: (i)
 18 if an underground storage tank contains gasoline, the
 19 indicator parameter shall be BTEX and Benzene; (ii) if the
 20 tank contained petroleum products consisting of middle
 21 distillate or heavy ends, then the indicator parameter shall
 22 be determined by a scan of PNA's taken from the location
 23 where contamination is most likely to be present; and (iii)
 24 if the tank contained used oil, then the indicator
 25 contaminant shall be those chemical constituents which
 26 indicate the type of petroleum stored in an underground
 27 storage tank. All references in this Title to groundwater
 28 objectives shall mean Class I groundwater standards or
 29 objectives as applicable.

30 (e) (1) Notwithstanding the provisions of this Section,
 31 an owner or operator may proceed to conduct site
 32 investigation or ~~physical soil classification,~~
 33 ~~groundwater investigation, site classification or other~~
 34 corrective action prior to the submittal or approval of

1 an otherwise required plan. If the owner or operator
2 elects to so proceed, an applicable plan shall be filed
3 with the Agency at any time. Such plan shall detail the
4 steps taken to determine the type of site investigation
5 or corrective action which was necessary at the site
6 along with the site investigation or corrective action
7 taken or to be taken, in addition to costs associated
8 with activities to date and anticipated costs.

9 (2) Upon receipt of a plan submitted after
10 activities have commenced at a site, the Agency shall
11 proceed to review in the same manner as required under
12 this Title. In the event the Agency disapproves all or
13 part of the costs, the owner or operator may appeal such
14 decision to the Board. The owner or operator shall not
15 be eligible to be reimbursed for such disapproved costs
16 unless and until the Board determines that such costs
17 were eligible for payment.

18 (f) All investigations, plans, and reports conducted or
19 prepared under this Section shall be conducted or prepared
20 under the supervision of a licensed professional engineer and
21 in accordance with the requirements of this Title.

22 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff.
23 1-1-96; 89-457, eff. 5-22-96.)

24 (415 ILCS 5/57.8)

25 Sec. 57.8. Underground Storage Tank Fund; payment;
26 options for State payment; deferred correction election to
27 commence corrective action upon availability of funds. If an
28 owner or operator is eligible to access the Underground
29 Storage Tank Fund pursuant to an Office of State Fire Marshal
30 eligibility/deductible final determination letter issued in
31 accordance with Section 57.9, the owner or operator may
32 submit a complete application for final or partial payment to
33 the Agency for activities taken in response to a confirmed

1 release. An owner or operator may submit a request for
2 partial or final payment regarding a site no more frequently
3 than once every 90 days.

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

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

27 (2) If sufficient funds are available in the
28 Underground Storage Tank Fund, the Agency shall, within
29 60 days, forward to the Office of the State Comptroller a
30 voucher in the amount approved under the payment
31 application.

32 (3) In the case of insufficient funds, the Agency
33 shall form a priority list for payment and shall notify
34 persons in such priority list monthly of the availability

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

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

28 (5) In the event that costs are or will be incurred
29 in addition to those approved by the Agency, or after
30 payment, the owner or operator may submit successive
31 plans containing amended budgets. The requirements of
32 Section 57.7 shall apply to any amended plans.

33 (6) For purposes of this Section, a complete
34 application shall consist of:

1 (A) A certification from a Licensed
 2 Professional Engineer as required under this Title
 3 and acknowledged by the owner or operator.

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

10 (C) A copy of the Office of the State Fire
 11 Marshal's eligibility and deductibility
 12 determination.

13 (D) Proof that approval of the payment
 14 requested will not result in the limitations set
 15 forth in subsection (g) of this Section being
 16 exceeded.

17 (E) A federal taxpayer identification number
 18 and legal status disclosure certification on a form
 19 prescribed and provided by the Agency.

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

1 appropriate. The regulations also shall establish the
 2 minimum investigatory requirements for determining whether
 3 the risk based criteria are present at a site considering
 4 deferral and procedures for the notification of owners or
 5 operators of insufficient funds, Agency review of request for
 6 deferral, notification of Agency final decisions, returning
 7 deferred sites to active status, and earmarking of funds for
 8 payment.

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

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

21 (2) a settlement with a third party due to a
 22 release of petroleum from an underground storage tank is
 23 reasonable.

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

Amount	Number of Tanks
<u>\$2,000,000</u> 1,700,000	fewer than 101
<u>\$3,000,000</u> \$2,700,000	101 or more

34 (1) Costs incurred in excess of the aggregate

1 amounts set forth in paragraph (1) of this subsection
2 shall not be eligible for payment in subsequent years.

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

7 (3) For purposes of this subsection, owner or
8 operator includes (i) any subsidiary, parent, or joint
9 stock company of the owner or operator and (ii) any
10 company owned by any parent, subsidiary, or joint stock
11 company of the owner or operator.

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

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

Subcontract or field	Eligible Handling Charges
Purchase Cost	as a Percentage of Cost
\$0 - \$5,000.....	12%
\$5,001 - \$15,000.....	\$600+10% of amt. over \$5,000
\$15,001 - \$50,000.....	\$1600+8% of amt. over \$15,000
\$50,001 - \$100,000.....	\$4400+5% of amt. over \$50,000
\$100,001 - \$1,000,000.....	\$6900+2% of amt. over \$100,000

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

1 (1) for costs of corrective action incurred by such
2 owner or operator in an amount in excess of \$1,500,000
3 ~~1,000,000~~ per occurrence; and

4 (2) for costs of indemnification of such owner or
5 operator in an amount in excess of \$1,500,000 ~~1,000,000~~
6 per occurrence.

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

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

18 (j) Costs of corrective action or indemnification
19 incurred by an owner or operator prior to July 28, 1989,
20 shall not be eligible for payment or reimbursement under this
21 Section.

22 (k) The Agency shall not pay costs of corrective action
23 or indemnification incurred before providing notification of
24 the release of petroleum in accordance with the provisions of
25 this Title.

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

31 (m) The Agency may apportion payment of costs for plans
32 submitted under Section 57.7 ~~57-7(e)(4)(E)(iii)~~ if:

33 (1) the owner or operator was deemed eligible to
34 access the Fund for payment of corrective action costs

1 for some, but not all, of the underground storage tanks
2 at the site; and

3 (2) the owner or operator failed to justify all
4 costs attributable to each underground storage tank at
5 the site.

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

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

15 (415 ILCS 5/57.10)

16 Sec. 57.10. Professional Engineer certification;
17 presumptions against liability.

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

26 (b) By certifying such a statement, a Licensed
27 Professional Engineer shall in no way be liable thereon,
28 unless the engineer gave such certification despite his or
29 her actual knowledge that the performed measures were not in
30 compliance with applicable statutory or regulatory
31 requirements or any plan submitted to the Agency.

32 (c) The Agency's issuance of a no further remediation
33 letter shall signify, based on the certification of the

1 Licensed Professional Engineer, that:

2 (1) all statutory and regulatory corrective
3 action requirements applicable to the occurrence have
4 been complied with;

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

7 (3) no further corrective action concerning the
8 occurrence is necessary for the protection of human
9 health, safety and the environment.

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

12 (1) The owner or operator to whom the letter was
13 issued.

14 (2) Any parent corporation or subsidiary of such
15 owner or operator.

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

20 (4) Any holder of a beneficial interest of a land
21 trust or inter vivos trust whether revocable or
22 irrevocable.

23 (5) Any mortgagee or trustee of a deed of trust of
24 such owner or operator.

25 (6) Any successor-in-interest of such owner or
26 operator.

27 (7) Any transferee of such owner or operator
28 whether the transfer was by sale, bankruptcy proceeding,
29 partition, dissolution of marriage, settlement or
30 adjudication of any civil action, charitable gift, or
31 bequest.

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

33 (e) If the Agency notifies the owner or operator that
34 the "no further remediation" letter has been rejected, the

1 grounds for such rejection shall be described in the notice.
2 Such a decision shall be a final determination which may be
3 appealed by the owner or operator.

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

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

16 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
17 5-22-96.)

18 (415 ILCS 5/57.13)

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

20 (a) If a release is reported to the proper State
21 authority on or after the effective date of this amendatory
22 Act of 2002 ~~1993~~, the owner or operator shall comply with the
23 requirements of this Title.

24 (b) If a release is reported to the proper State
25 authority prior to the effective date of this amendatory Act
26 of 2002 ~~1993~~, the owner or operator of an underground storage
27 tank may elect to proceed in accordance with the requirements
28 of this Title by submitting a written statement to the Agency
29 of such election. If the owner or operator elects to proceed
30 under the requirements of this Title all costs incurred in
31 connection with the incident prior to notification shall be
32 reimbursable in the same manner as was allowable under the
33 then existing law. Completion of corrective action shall then

1 follow the provisions of this Title. Owners and operators who
2 have not elected to proceed in accordance with the
3 requirements of this Title shall proceed in accordance with
4 the law in effect prior to the effective date of this
5 amendatory Act of 2002.

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

7 (415 ILCS 5/57.14A new)

8 Sec. 57.14A. Rules.

9 (a) The Agency shall propose and the Board shall adopt
10 amendments to the rules governing the administration of this
11 Title to make the rules consistent with the provisions
12 herein.

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

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.