

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

5 "Indemnification" means indemnification of an owner or
6 operator for the amount of any judgment entered against the
7 owner or operator in a court of law, for the amount of any
8 final order or determination made against the owner or
9 operator by an agency of State government or any subdivision
10 thereof, or for the amount of any settlement entered into by
11 the owner or operator, if the judgment, order, determination,
12 or settlement arises out of bodily injury or property damage
13 suffered as a result of a release of petroleum from an
14 underground storage tank owned or operated by the owner or
15 operator.

16 "Corrective action" means activities associated with
17 compliance with the provisions of Sections 57.6 and 57.7 of
18 this Title.

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

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

33 "Licensed Professional Engineer" means a person,
34 corporation, or partnership licensed under the laws of the

1 State of Illinois to practice professional engineering.

2 "Licensed Professional Geologist" means a person licensed
3 under the laws of the State of Illinois to practice as a
4 professional geologist.

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

8 "Physical soil classification" means verification that
9 subsurface strata are as generally mapped in the publication
10 Illinois Geological Survey Circular (1984) titled "Potential
11 for Contamination of Shallow Aquifers in Illinois," by Berg,
12 Richard C., et al. Such classification may include review of
13 soil borings, well logs, physical soil analyses, regional
14 geologic maps, or other scientific publications.

15 "Property damage" means physical injury to, destruction
16 of, or contamination of tangible property, including all
17 resulting loss of use of that property; or loss of use of
18 tangible property that is not physically injured, destroyed,
19 or contaminated, but has been evacuated, withdrawn from use,
20 or rendered inaccessible because of a release of petroleum
21 from an underground storage tank.

22 "Class I Groundwater" means groundwater that meets the
23 Class I: Potable Resource Groundwater criteria set forth in
24 the Board regulations adopted pursuant to the Illinois
25 Groundwater Protection Act.

26 "Class III Groundwater" means groundwater that meets the
27 Class III: Special Resource Groundwater criteria set forth
28 in the Board regulations adopted pursuant to the Illinois
29 Groundwater Protection Act.

30 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
31 5-22-96.)

32 (415 ILCS 5/57.7)

33 Sec. 57.7. Leaking underground storage tanks; physical

1 soil classification, groundwater investigation, site
2 classification, and corrective action.

3 (a) Physical soil classification and groundwater
4 investigation.

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

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

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

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

32 (3) Within 30 days of completion of the physical
33 soil classification or groundwater investigation report
34 the owner or operator shall submit to the Agency:

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

3 (B) a certification by a Licensed Professional
4 Engineer or Licensed Professional Geologist of the
5 site's classification as High Priority, Low
6 Priority, or No Further Action in accordance with
7 subsection (b) of this Section as High Priority, Low
8 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", "Low
14 Priority", or "High Priority" based on the requirements
15 of this Section. Site classification shall be determined
16 by a Licensed Professional Engineer or Licensed
17 Professional Geologist in accordance with the
18 requirements of this Title and the Licensed Professional
19 Engineer or Licensed Professional Geologist shall submit
20 a certification to the Agency of the site classification.
21 The Agency has the authority to audit site
22 classifications and reject or modify any site
23 classification inconsistent with the requirements of this
24 Title.

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

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

32 (ii) A site evaluation under the direction of
33 a Licensed Professional Engineer or Licensed
34 Professional Geologist verifies the physical soil

1 classification conditions are consistent with those
2 indicated on the Illinois Geological Survey Circular
3 (1984) titled "Potential for Contamination of
4 Shallow Aquifers in Illinois," by Berg, Richard C.,
5 et al.; and

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

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

15 (3) Sites shall be classified as High Priority if
16 any of the following are met:

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

1 less as a consequence of the underground storage
2 tank release.

3 (B) The underground storage tank is within the
4 minimum or maximum setback zone of a potable water
5 supply well or regulated recharge area of a potable
6 water supply well.

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

13 (D) Class III special resource groundwater
14 exists within 200 feet of the excavation.

15 (E) A surface water body is adversely affected
16 by the presence of a visible sheen or free product
17 layer as the result of an underground storage tank
18 release.

19 (4) Sites shall be classified as Low Priority if
20 all of the following are met:

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

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

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

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

3 (iii) the results of the physical soil
4 classification and groundwater investigation do not
5 indicate an applicable indicator contaminant
6 groundwater quality standard or groundwater
7 objective has been exceeded at the property boundary
8 line or 200 feet from the underground storage tank,
9 whichever is less.

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

19 (6) For purposes of physical soil classification,
20 the Board is authorized to prescribe by regulation
21 alternatives to use of the Illinois Geological Survey
22 Circular (1984) titled "Potential for Contamination of
23 Shallow Aquifers in Illinois" by Berg, Richard C., et al.

24 (c) Corrective Action.

25 (1) High Priority Site.

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

1 (B) If the owner or operator intends to seek
2 payment from the Fund, prior to performance of any
3 corrective action beyond that required by Section
4 57.6 and subsection (a) of Section 57.7, the owner
5 or operator shall submit to the Agency for the
6 Agency's approval or modification a corrective
7 action plan budget which includes, but is not
8 limited to, an accounting of all costs associated
9 with the implementation and completion of the
10 corrective action plan.

11 (C) The corrective action plan shall do all of
12 the following:

13 (i) Provide that applicable indicator
14 contaminant groundwater quality standards or
15 groundwater objectives will not be exceeded in
16 groundwater at the property boundary line or
17 200 feet from the excavation, whichever is
18 less, or other level if approved by the Agency,
19 for any contaminant identified in the
20 groundwater investigation after complete
21 performance of the corrective action plan.

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

31 (iii) Remediate threats due to the
32 presence or migration, through natural or
33 manmade pathways, of petroleum in
34 concentrations sufficient to harm human health

1 or human safety or to cause explosions in
2 basements, crawl spaces, utility conduits,
3 storm or sanitary sewers, vaults or other
4 confined spaces.

5 (iv) Remediate threats to a potable water
6 supply.

7 (v) Remediate threats to a surface water
8 body.

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

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

21 (i) The corrective action completion
22 report demonstrates that: (a) applicable
23 indicator contaminant groundwater quality
24 standards or groundwater objectives are not
25 exceeded at the property boundary line or 200
26 feet from the excavation, whichever is less, as
27 a result of the underground storage tank
28 release for any indicator contaminant
29 identified in the groundwater investigation;
30 (b) Class III special use resource groundwater
31 quality standards, for Class III special use
32 resource groundwater within 200 feet of the
33 underground storage tank, are not exceeded as a
34 result of the underground storage tank release

1 for any contaminant identified in the
2 groundwater investigation; (c) the underground
3 storage tank release does not threaten human
4 health or human safety due to the presence or
5 migration, through natural or manmade pathways,
6 of petroleum or hazardous substances in
7 concentrations sufficient to harm human health
8 or human safety or to cause explosions in
9 basements, crawl spaces, utility conduits,
10 storm or sanitary sewers, vaults or other
11 confined spaces; (d) the underground storage
12 tank release does not threaten any surface
13 water body; and (e) the underground storage
14 tank release does not threaten any potable
15 water supply.

16 (ii) The owner or operator submits to the
17 Agency a certification from a Licensed
18 Professional Engineer that the work described
19 in the approved corrective action plan has been
20 completed and that the information presented in
21 the corrective action completion report is
22 accurate and complete.

23 (2) Low Priority Site.

24 (A) Corrective action at a low priority site
25 must include groundwater monitoring consistent with
26 part (B) of this paragraph (2).

27 (B) Prior to implementation of groundwater
28 monitoring, the owner or operator shall prepare and
29 submit to the Agency a groundwater monitoring plan
30 and, if the owner or operator intends to seek
31 payment under this Title, an associated budget which
32 includes, at a minimum, all of the following:

33 (i) Placement of groundwater monitoring
34 wells at the property line, or at 200 feet from

1 the excavation which ever is closer, designed
2 to provide the greatest likelihood of detecting
3 migration of groundwater contamination.

4 (ii) Quarterly groundwater sampling for a
5 period of one year, semi-annual sampling for
6 the second year and annual groundwater sampling
7 for one subsequent year for all indicator
8 contaminants identified during the groundwater
9 investigation.

10 (iii) The annual submittal to the Agency
11 of a summary of groundwater sampling results.

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

34 (D) If, throughout the implementation of the

1 groundwater monitoring plan, the groundwater
2 sampling results do not confirm an exceedence of
3 applicable indicator contaminant groundwater quality
4 standards or groundwater objectives as a result of
5 the underground storage tank release, the owner or
6 operator shall submit to the Agency a certification
7 of a Licensed Professional Engineer or Licensed
8 Professional Geologist so stating.

9 (E) Unless the Agency takes action under
10 subsection (b)(2)(C) to reclassify a site as high
11 priority, upon receipt of a certification by a
12 Licensed Professional Engineer or Licensed
13 Professional Geologist submitted pursuant to
14 paragraph (2) of subsection (c) of this Section, the
15 Agency shall issue to the owner or operator a no
16 further remediation letter in accordance with
17 Section 57.10.

18 (3) No Further Action Site.

19 (A) No Further Action sites require no
20 remediation beyond that required in Section 57.6 and
21 subsection (a) of this Section if the owner or
22 operator has submitted to the Agency a certification
23 by a Licensed Professional Engineer or Licensed
24 Professional Geologist that the site meets all of
25 the criteria for classification as No Further Action
26 in subsection (b) of this Section.

27 (B) Unless the Agency takes action to reject
28 or modify a site classification under subsection (b)
29 of this Section or the site classification is
30 rejected by operation of law under item (4)(B) of
31 subsection (c) of this Section, upon receipt of a
32 certification by a Licensed Professional Engineer or
33 Licensed Professional Geologist submitted pursuant
34 to part (A) of paragraph (3) of subsection (c) of

1 this Section, the Agency shall issue to the owner or
2 operator a no further remediation letter in
3 accordance with Section 57.10.

4 (4) Agency review and approval.

5 (A) Agency approval of any plan and associated
6 budget, as described in this item (4), shall be
7 considered final approval for purposes of seeking
8 and obtaining payment from the Underground Storage
9 Tank Fund if the costs associated with the
10 completion of any such plan are less than or equal
11 to the amounts approved in such budget.

12 (B) In the event the Agency fails to approve,
13 disapprove, or modify any plan or report submitted
14 pursuant to this Title in writing within 120 days of
15 the receipt by the Agency, the plan or report shall
16 be considered to be rejected by operation of law for
17 purposes of this Title and rejected for purposes of
18 payment from the Leaking Underground Storage Tank
19 Fund.

20 (i) For purposes of those plans as
21 identified in subparagraph (E) of this
22 subsection (c)(4), the Agency's review may be
23 an audit procedure. Such review or audit shall
24 be consistent with the procedure for such
25 review or audit as promulgated by the Board
26 under item (7) of subsection (b) of Section
27 57.14. The Agency has the authority to
28 establish an auditing program to verify
29 compliance of such plans with the provisions of
30 this Title.

31 (ii) For purposes of those plans
32 submitted pursuant to Part (E) (iii) of this
33 paragraph (4) for which payment from the Fund
34 is not being sought, the Agency need not take

1 action on such plan until 120 days after it
2 receives the corrective action completion
3 report required under Section 57(c)(1)(D). In
4 the event the Agency approved the plan, it
5 shall proceed under the provisions of Section
6 57(c)(4).

7 (C) In approving any plan submitted pursuant
8 to Part (E) of this paragraph (4), the Agency shall
9 determine, by a procedure promulgated by the Board
10 under item (7) of subsection (b) of Section 57.14,
11 that the costs associated with the plan are
12 reasonable, will be incurred in the performance of
13 corrective action, and will not be used for
14 corrective action activities in excess of those
15 required to meet the minimum requirements of this
16 title.

17 (D) For any plan or report received after the
18 effective date of this amendatory Act of 1993, any
19 action by the Agency to disapprove or modify a plan
20 submitted pursuant to this Title shall be provided
21 to the owner or operator in writing within 120 days
22 of the receipt by the Agency or, in the case of a
23 corrective action plan for which payment is not
24 being sought, within 120 days of receipt of the
25 corrective action completion report, and shall be
26 accompanied by:

27 (i) an explanation of the Sections of
28 this Act which may be violated if the plans
29 were approved;

30 (ii) an explanation of the provisions of
31 the regulations, promulgated under this Act,
32 which may be violated if the plan were
33 approved;

34 (iii) an explanation of the specific type

1 of information, if any, which the Agency deems
2 the applicant did not provide the Agency; and

3 (iv) a statement of specific reasons why
4 the Act and the regulations might not be met if
5 the plan were approved.

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

15 (E) For purposes of this Title, the term
16 "plan" shall include:

17 (i) Any physical soil classification and
18 groundwater investigation plan submitted
19 pursuant to item (1)(A) of subsection (a) of
20 this Section, or budget under item (2) of
21 subsection (a) of this Section;

22 (ii) Any groundwater monitoring plan or
23 budget submitted pursuant to subsection
24 (c)(2)(B) of this Section;

25 (iii) Any corrective action plan
26 submitted pursuant to subsection (c)(1)(A) of
27 this Section; or

28 (iv) Any corrective action plan budget
29 submitted pursuant to subsection (c)(1)(B) of
30 this Section.

31 (d) For purposes of this Title, the term "indicator
32 contaminant" shall mean, unless and until the Board
33 promulgates regulations to the contrary, the following: (i)
34 if an underground storage tank contains gasoline, the

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

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

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

33 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff.
34 1-1-96; 89-457, eff. 5-22-96; revised 1-25-02.)

1 (415 ILCS 5/57.8)

2 Sec. 57.8. Underground Storage Tank Fund; payment;
3 options for State payment; deferred correction election to
4 commence corrective action upon availability of funds. If an
5 owner or operator is eligible to access the Underground
6 Storage Tank Fund pursuant to an Office of State Fire Marshal
7 eligibility/deductible final determination letter issued in
8 accordance with Section 57.9, the owner or operator may
9 submit a complete application for final or partial payment to
10 the Agency for activities taken in response to a confirmed
11 release. An owner or operator may submit a request for
12 partial or final payment regarding a site no more frequently
13 than once every 90 days.

14 (a) Payment after completion of corrective action
15 measures. The owner or operator may submit an application for
16 payment for activities performed at a site after completion
17 of the requirements of Sections 57.6 and 57.7, or after
18 completion of any other required activities at the
19 underground storage tank site.

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

1 or operator an amount greater than the amount approved in
2 the plan.

3 (2) If sufficient funds are available in the
4 Underground Storage Tank Fund, the Agency shall, within
5 60 days, forward to the Office of the State Comptroller a
6 voucher in the amount approved under the payment
7 application.

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

32 (4) Any deductible, as determined pursuant to the
33 Office of the State Fire Marshal's eligibility and
34 deductibility final determination in accordance with

1 Section 57.9, shall be subtracted from any payment
2 invoice paid to an eligible owner or operator. Only one
3 deductible shall apply per underground storage tank site.

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

9 (6) For purposes of this Section, a complete
10 application shall consist of:

11 (A) A certification from a Licensed
12 Professional Engineer or Licensed Professional
13 Geologist as required under this Title and
14 acknowledged by the owner or operator.

15 (B) A statement of the amount approved in the
16 plan and the amount actually sought for payment
17 along with a certified statement that the amount so
18 sought shall be expended in conformance with the
19 approved budget.

20 (C) A copy of the Office of the State Fire
21 Marshal's eligibility and deductibility
22 determination.

23 (D) Proof that approval of the payment
24 requested will not result in the limitations set
25 forth in subsection (g) of this Section being
26 exceeded.

27 (E) A federal taxpayer identification number
28 and legal status disclosure certification on a form
29 prescribed and provided by the Agency.

30 (b) Commencement of corrective action upon availability
31 of funds. The Board shall adopt regulations setting forth
32 procedures based on risk to human health or the environment
33 under which the owner or operator who has received approval
34 for any budget plan submitted pursuant to Section 57.7, and

1 who is eligible for payment from the Underground Storage Tank
2 Fund pursuant to an Office of the State Fire Marshal
3 eligibility and deductibility determination, may elect to
4 defer site classification, low priority groundwater
5 monitoring, or remediation activities until funds are
6 available in an amount equal to the amount approved in the
7 budget plan. The regulations shall establish criteria based
8 on risk to human health or the environment to be used for
9 determining on a site-by-site basis whether deferral is
10 appropriate. The regulations also shall establish the
11 minimum investigatory requirements for determining whether
12 the risk based criteria are present at a site considering
13 deferral and procedures for the notification of owners or
14 operators of insufficient funds, Agency review of request for
15 deferral, notification of Agency final decisions, returning
16 deferred sites to active status, and earmarking of funds for
17 payment.

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

25 (1) there is a legally enforceable judgment entered
26 against the owner or operator and such judgment was
27 entered due to harm caused by a release of petroleum from
28 an underground storage tank and such judgment was not
29 entered as a result of fraud; or

30 (2) a settlement with a third party due to a
31 release of petroleum from an underground storage tank is
32 reasonable.

33 (d) Notwithstanding any other provision of this Title,
34 the Agency shall not approve payment to an owner or operator

1 from the Fund for costs of corrective action or
 2 indemnification incurred during a calendar year in excess of
 3 the following aggregate amounts based on the number of
 4 petroleum underground storage tanks owned or operated by such
 5 owner or operator in Illinois.

6 Amount	Number of Tanks
7 \$1,000,000.....	fewer than 101
8 \$2,000,000.....	101 or more

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

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

16 (3) For purposes of this subsection, owner or
 17 operator includes (i) any subsidiary, parent, or joint
 18 stock company of the owner or operator and (ii) any
 19 company owned by any parent, subsidiary, or joint stock
 20 company of the owner or operator.

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

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

1	Subcontract or field	Eligible Handling Charges
2	Purchase Cost	as a Percentage of Cost
3	\$0 - \$5,000.....	12%
4	\$5,001 - \$15,000.....	\$600+10% of amt. over \$5,000
5	\$15,001 - \$50,000.....	\$1600+8% of amt. over \$15,000
6	\$50,001 - \$100,000.....	\$4400+5% of amt. over \$50,000
7	\$100,001 - \$1,000,000.....	\$6900+2% of amt. over \$100,000

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

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

13 (2) for costs of indemnification of such owner or
14 operator in an amount in excess of \$1,000,000 per
15 occurrence.

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

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

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

31 (k) The Agency shall not pay costs of corrective action
32 or indemnification incurred before providing notification of
33 the release of petroleum in accordance with the provisions of
34 this Title.

1 (1) Corrective action does not include legal defense
2 costs. Legal defense costs include legal costs for seeking
3 payment under this Title unless the owner or operator
4 prevails before the Board in which case the Board may
5 authorize payment of legal fees.

6 (m) The Agency may apportion payment of costs for plans
7 submitted under Section 57.7(c)(4)(E)(iii) if:

8 (1) the owner or operator was deemed eligible to
9 access the Fund for payment of corrective action costs
10 for some, but not all, of the underground storage tanks
11 at the site; and

12 (2) the owner or operator failed to justify all
13 costs attributable to each underground storage tank at
14 the site.

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

16 (415 ILCS 5/57.10)

17 Sec. 57.10. Professional Engineer or Professional
18 Geologist certification; presumptions against liability.

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

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

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

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

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

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

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

14 (1) The owner or operator to whom the letter was
15 issued.

16 (2) Any parent corporation or subsidiary of such
17 owner or operator.

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

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

25 (5) Any mortgagee or trustee of a deed of trust of
26 such owner or operator.

27 (6) Any successor-in-interest of such owner or
28 operator.

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

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

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

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

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

18 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
19 5-22-96.)

20 (415 ILCS 5/58.2)

21 Sec. 58.2. Definitions. The following words and phrases
22 when used in this Title shall have the meanings given to them
23 in this Section unless the context clearly indicates
24 otherwise:

25 "Agrichemical facility" means a site on which
26 agricultural pesticides are stored or handled, or both, in
27 preparation for end use, or distributed. The term does not
28 include basic manufacturing facility sites.

29 "ASTM" means the American Society for Testing and
30 Materials.

31 "Area background" means concentrations of regulated
32 substances that are consistently present in the environment
33 in the vicinity of a site that are the result of natural

1 conditions or human activities, and not the result solely of
2 releases at the site.

3 "Brownfields site" or "brownfields" means a parcel of
4 real property, or a portion of the parcel, that has actual or
5 perceived contamination and an active potential for
6 redevelopment.

7 "Class I groundwater" means groundwater that meets the
8 Class I Potable Resource groundwater criteria set forth in
9 the Board rules adopted under the Illinois Groundwater
10 Protection Act.

11 "Class III groundwater" means groundwater that meets the
12 Class III Special Resource Groundwater criteria set forth in
13 the Board rules adopted under the Illinois Groundwater
14 Protection Act.

15 "Carcinogen" means a contaminant that is classified as a
16 Category A1 or A2 Carcinogen by the American Conference of
17 Governmental Industrial Hygienists; or a Category 1 or 2A/2B
18 Carcinogen by the World Health Organizations International
19 Agency for Research on Cancer; or a "Human Carcinogen" or
20 "Anticipated Human Carcinogen" by the United States
21 Department of Health and Human Service National Toxicological
22 Program; or a Category A or B1/B2 Carcinogen by the United
23 States Environmental Protection Agency in Integrated Risk
24 Information System or a Final Rule issued in a Federal
25 Register notice by the USEPA as of the effective date of this
26 amendatory Act of 1995.

27 "Licensed Professional Engineer" (LPE) means a person,
28 corporation, or partnership licensed under the laws of this
29 State to practice professional engineering.

30 "Licensed Professional Geologist" means a person licensed
31 under the laws of the State of Illinois to practice as a
32 professional geologist.

33 "RELPEG" means a Licensed Professional Engineer or a
34 Licensed Professional Geologist engaged in review and

1 evaluation under this Title.

2 "Man-made pathway" means constructed routes that may
3 allow for the transport of regulated substances including,
4 but not limited to, sewers, utility lines, utility vaults,
5 building foundations, basements, crawl spaces, drainage
6 ditches, or previously excavated and filled areas.

7 "Municipality" means an incorporated city, village, or
8 town in this State. "Municipality" does not mean a township,
9 town when that term is used as the equivalent of a township,
10 incorporated town that has superseded a civil township,
11 county, or school district, park district, sanitary district,
12 or similar governmental district.

13 "Natural pathway" means natural routes for the transport
14 of regulated substances including, but not limited to, soil,
15 groundwater, sand seams and lenses, and gravel seams and
16 lenses.

17 "Person" means individual, trust, firm, joint stock
18 company, joint venture, consortium, commercial entity,
19 corporation (including a government corporation),
20 partnership, association, State, municipality, commission,
21 political subdivision of a State, or any interstate body
22 including the United States Government and each department,
23 agency, and instrumentality of the United States.

24 "Regulated substance" means any hazardous substance as
25 defined under Section 101(14) of the Comprehensive
26 Environmental Response, Compensation, and Liability Act of
27 1980 (P.L. 96-510) and petroleum products including crude oil
28 or any fraction thereof, natural gas, natural gas liquids,
29 liquefied natural gas, or synthetic gas usable for fuel (or
30 mixtures of natural gas and such synthetic gas).

31 "Remedial action" means activities associated with
32 compliance with the provisions of Sections 58.6 and 58.7.

33 "Remediation Applicant" (RA) means any person seeking to
34 perform or performing investigative or remedial activities

1 under this Title, including the owner or operator of the site
2 or persons authorized by law or consent to act on behalf of
3 or in lieu of the owner or operator of the site.

4 "Remediation costs" means reasonable costs paid for
5 investigating and remediating regulated substances of concern
6 consistent with the remedy selected for a site. For purposes
7 of Section 58.14, "remediation costs" shall not include costs
8 incurred prior to January 1, 1998, costs incurred after the
9 issuance of a No Further Remediation Letter under Section
10 58.10 of this Act, or costs incurred more than 12 months
11 prior to acceptance into the Site Remediation Program.

12 "Residential property" means any real property that is
13 used for habitation by individuals and other property uses
14 defined by Board rules such as education, health care, child
15 care and related uses.

16 "Site" means any single location, place, tract of land or
17 parcel of property, or portion thereof, including contiguous
18 property separated by a public right-of-way.

19 "Regulated substance of concern" means any contaminant
20 that is expected to be present at the site based upon past
21 and current land uses and associated releases that are known
22 to the Remediation Applicant based upon reasonable inquiry.

23 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
24 90-123, eff. 7-21-97.)

25 (415 ILCS 5/58.6)

26 Sec. 58.6. Remedial investigations and reports.

27 (a) Any RA who proceeds under this Title may elect to
28 seek review and approval for any of the remediation
29 objectives provided in Section 58.5 for any or all regulated
30 substances of concern. The RA shall conduct investigations
31 and remedial activities for regulated substances of concern
32 and prepare plans and reports in accordance with this Section
33 and rules adopted hereunder. The RA shall submit the plans

1 and reports for review and approval in accordance with
2 Section 58.7. All investigations, plans, and reports
3 conducted or prepared under this Section shall be under the
4 supervision of a Licensed Professional Engineer (LPE) or, in
5 the case of a site investigation only, a Licensed
6 Professional Geologist in accordance with the requirements of
7 this Title.

8 (b) (1) Site investigation and Site Investigation
9 Report. The RA shall conduct a site investigation to
10 determine the significant physical features of the site
11 and vicinity that may affect contaminant transport and
12 risk to human health, safety, and the environment and to
13 determine the nature, concentration, direction and rate
14 of movement, and extent of the contamination at the site.

15 (2) The RA shall compile the results of the
16 investigations into a Site Investigation Report. At a
17 minimum, the reports shall include the following, as
18 applicable:

19 (A) Executive summary;

20 (B) Site history;

21 (C) Site-specific sampling methods and
22 results;

23 (D) Documentation of field activities,
24 including quality assurance project plan;

25 (E) Interpretation of results; and

26 (F) Conclusions.

27 (c) Remediation Objectives Report.

28 (1) If a RA elects to determine remediation
29 objectives appropriate for the site using the Tier II or
30 Tier III procedures under subsection (d) of Section
31 58.5, the RA shall develop such remediation objectives
32 based on site-specific information. In support of such
33 remediation objectives, the RA shall prepare a
34 Remediation Objectives Report demonstrating how the

1 site-specific objectives were calculated or otherwise
2 determined.

3 (2) If a RA elects to determine remediation
4 objectives appropriate for the site using the area
5 background procedures under subsection (b) of Section
6 58.5, the RA shall develop such remediation objectives
7 based on site-specific literature review, sampling
8 protocol, or appropriate statistical methods in
9 accordance with Board rules. In support of such
10 remediation objectives, the RA shall prepare a
11 Remediation Objectives Report demonstrating how the area
12 background remediation objectives were determined.

13 (d) Remedial Action Plan. If the approved remediation
14 objectives for any regulated substance established under
15 Section 58.5 are less than the levels existing at the site
16 prior to any remedial action, the RA shall prepare a Remedial
17 Action Plan. The Remedial Action Plan shall describe the
18 selected remedy and evaluate its ability and effectiveness to
19 achieve the remediation objectives approved for the site. At
20 a minimum, the reports shall include the following, as
21 applicable:

- 22 (1) Executive summary;
- 23 (2) Statement of remediation objectives;
- 24 (3) Remedial technologies selected;
- 25 (4) Confirmation sampling plan;
- 26 (5) Current and projected future use of the
27 property; and
- 28 (6) Applicable preventive, engineering, and
29 institutional controls including long-term reliability,
30 operating, and maintenance plans, and monitoring
31 procedures.

32 (e) Remedial Action Completion Report.

33 (1) Upon completion of the Remedial Action Plan,
34 the RA shall prepare a Remedial Action Completion Report.

1 The report shall demonstrate whether the remedial action
2 was completed in accordance with the approved Remedial
3 Action Plan and whether the remediation objectives, as
4 well as any other requirements of the plan, have been
5 attained.

6 (2) If the approved remediation objectives for the
7 regulated substances of concern established under Section
8 58.5 are equal to or above the levels existing at the
9 site prior to any remedial action, notification and
10 documentation of such shall constitute the entire
11 Remedial Action Completion Report for purposes of this
12 Title.

13 (f) Ability to proceed. The RA may elect to prepare and
14 submit for review and approval any and all reports or plans
15 required under the provisions of this Section individually,
16 following completion of each such activity; concurrently,
17 following completion of all activities; or in any other
18 combination. In any event, the review and approval process
19 shall proceed in accordance with Section 58.7 and rules
20 adopted thereunder.

21 (g) Nothing in this Section shall prevent an RA from
22 implementing or conducting an interim or any other remedial
23 measure prior to election to proceed under Section 58.6.

24 (h) In accordance with Section 58.11, the Agency shall
25 propose and the Board shall adopt rules to carry out the
26 purposes of this Section.

27 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96.)

28 (415 ILCS 5/58.7)

29 Sec. 58.7. Review and approvals.

30 (a) Requirements. All plans and reports that are
31 submitted pursuant to this Title shall be submitted for
32 review or approval in accordance with this Section.

33 (b) Review and evaluation by the Agency.

1 (1) Except for sites excluded under subdivision (a)
2 (2) of Section 58.1, the Agency shall, subject to
3 available resources, agree to provide review and
4 evaluation services for activities carried out pursuant
5 to this Title for which the RA requested the services in
6 writing. As a condition for providing such services, the
7 Agency may require that the RA for a site:

8 (A) Conform with the procedures of this Title;

9 (B) Allow for or otherwise arrange site visits
10 or other site evaluation by the Agency when so
11 requested;

12 (C) Agree to perform the work plan as approved
13 under this Title;

14 (D) Agree to pay any reasonable costs incurred
15 and documented by the Agency in providing such
16 services;

17 (E) Make an advance partial payment to the
18 Agency for such anticipated services in an amount,
19 acceptable to the Agency, but not to exceed \$5,000
20 or one-half of the total anticipated costs of the
21 Agency, whichever sum is less; and

22 (F) Demonstrate, if necessary, authority to
23 act on behalf of or in lieu of the owner or
24 operator.

25 (2) Any moneys received by the State for costs
26 incurred by the Agency in performing review or evaluation
27 services for actions conducted pursuant to this Title
28 shall be deposited in the Hazardous Waste Fund.

29 (3) An RA requesting services under subdivision (b)
30 (1) of this Section may, at any time, notify the Agency,
31 in writing, that Agency services previously requested are
32 no longer wanted. Within 180 days after receipt of the
33 notice, the Agency shall provide the RA with a final
34 invoice for services provided until the date of such

1 notifications.

2 (4) The Agency may invoice or otherwise request or
3 demand payment from a RA for costs incurred by the Agency
4 in performing review or evaluation services for actions
5 by the RA at sites only if:

6 (A) The Agency has incurred costs in
7 performing response actions, other than review or
8 evaluation services, due to the failure of the RA to
9 take response action in accordance with a notice
10 issued pursuant to this Act;

11 (B) The RA has agreed in writing to the
12 payment of such costs;

13 (C) The RA has been ordered to pay such costs
14 by the Board or a court of competent jurisdiction
15 pursuant to this Act; or

16 (D) The RA has requested or has consented to
17 Agency review or evaluation services under
18 subdivision (b) (1) of this Section.

19 (5) The Agency may, subject to available resources,
20 agree to provide review and evaluation services for
21 response actions if there is a written agreement among
22 parties to a legal action or if a notice to perform a
23 response action has been issued by the Agency.

24 (c) Review and evaluation by a Licensed Professional
25 Engineer or Licensed Professional Geologist. A RA may elect
26 to contract with a Licensed Professional Engineer or, in the
27 case of a site investigation report only, a Licensed
28 Professional Geologist, who will perform review and
29 evaluation services on behalf of and under the direction of
30 the Agency relative to the site activities.

31 (1) Prior to entering into the contract with the
32 RELPEG Review---and--Evaluation--Licensed--Professional
33 Engineer-(RELPE), the RA shall notify the Agency of the
34 RELPEG RELPE to be selected. The Agency and the RA shall

1 discuss the potential terms of the contract.

2 (2) At a minimum, the contract with the RELPEG
3 RELPE shall provide that the RELPEG RELPE will submit
4 any reports directly to the Agency, will take his or her
5 directions for work assignments from the Agency, and will
6 perform the assigned work on behalf of the Agency.

7 (3) Reasonable costs incurred by the Agency shall
8 be paid by the RA directly to the Agency in accordance
9 with the terms of the review and evaluation services
10 agreement entered into under subdivision (b) (1) of
11 Section 58.7.

12 (4) In no event shall the RELPEG RELPE acting on
13 behalf of the Agency be an employee of the RA or the
14 owner or operator of the site or be an employee of any
15 other person the RA has contracted to provide services
16 relative to the site.

17 (d) Review and approval. All reviews required under
18 this Title shall be carried out by the Agency or a RELPEG
19 RELPE, both under the direction of a Licensed Professional
20 Engineer or, in the case of the review of a site
21 investigation only, a Licensed Professional Geologist.

22 (1) All review activities conducted by the Agency
23 or a RELPEG RELPE shall be carried out in conformance
24 with this Title and rules promulgated under Section
25 58.11.

26 (2) Subject to the limitations in subsection (c)
27 and this subsection (d), the specific plans, reports, and
28 activities that which the Agency or a RELPEG RELPE may
29 review include:

30 (A) Site Investigation Reports and related
31 activities;

32 (B) Remediation Objectives Reports;

33 (C) Remedial Action Plans and related
34 activities; and

1 (D) Remedial Action Completion Reports and
2 related activities.

3 (3) Only the Agency shall have the authority to
4 approve, disapprove, or approve with conditions a plan
5 or report as a result of the review process including
6 those plans and reports reviewed by a RELPEG RELPE. If
7 the Agency disapproves a plan or report or approves a
8 plan or report with conditions, the written notification
9 required by subdivision (d) (4) of this Section shall
10 contain the following information, as applicable:

11 (A) An explanation of the Sections of this
12 Title that may be violated if the plan or report was
13 approved;

14 (B) An explanation of the provisions of the
15 rules promulgated under this Title that may be
16 violated if the plan or report was approved;

17 (C) An explanation of the specific type of
18 information, if any, that the Agency deems the
19 applicant did not provide the Agency;

20 (D) A statement of specific reasons why the
21 Title and regulations might not be met if the plan
22 or report were approved; and

23 (E) An explanation of the reasons for
24 conditions if conditions are required.

25 (4) Upon approving, disapproving, or approving with
26 conditions a plan or report, the Agency shall notify the
27 RA in writing of its decision. In the case of approval
28 or approval with conditions of a Remedial Action
29 Completion Report, the Agency shall prepare a No Further
30 Remediation Letter that meets the requirements of Section
31 58.10 and send a copy of the letter to the RA.

32 (5) All reviews undertaken by the Agency or a
33 RELPEG RELPE shall be completed and the decisions
34 communicated to the RA within 60 days of the request for

1 review or approval. The RA may waive the deadline upon a
2 request from the Agency. If the Agency disapproves or
3 approves with conditions a plan or report or fails to
4 issue a final decision within the 60 day period and the
5 RA has not agreed to a waiver of the deadline, the RA
6 may, within 35 days, file an appeal to the Board.
7 Appeals to the Board shall be in the manner provided for
8 the review of permit decisions in Section 40 of this Act.

9 (e) Standard of review. In making determinations, the
10 following factors, and additional factors as may be adopted
11 by the Board in accordance with Section 58.11, shall be
12 considered by the Agency when reviewing or approving plans,
13 reports, and related activities, or the RELPEG RELPE, when
14 reviewing plans, reports, and related activities:

15 (1) Site Investigation Reports and related
16 activities: Whether investigations have been conducted
17 and the results compiled in accordance with the
18 appropriate procedures and whether the interpretations
19 and conclusions reached are supported by the information
20 gathered. In making the determination, the following
21 factors shall be considered:

22 (A) The adequacy of the description of the
23 site and site characteristics that were used to
24 evaluate the site;

25 (B) The adequacy of the investigation of
26 potential pathways and risks to receptors identified
27 at the site; and

28 (C) The appropriateness of the sampling and
29 analysis used.

30 (2) Remediation Objectives Reports: Whether the
31 remediation objectives are consistent with the
32 requirements of the applicable method for selecting or
33 determining remediation objectives under Section 58.5.

34 In making the determination, the following factors shall

1 be considered:

2 (A) If the objectives were based on the
3 determination of area background levels under
4 subsection (b) of Section 58.5, whether the review
5 of current and historic conditions at or in the
6 immediate vicinity of the site has been thorough and
7 whether the site sampling and analysis has been
8 performed in a manner resulting in accurate
9 determinations;

10 (B) If the objectives were calculated on the
11 basis of predetermined equations using site specific
12 data, whether the calculations were accurately
13 performed and whether the site specific data reflect
14 actual site conditions; and

15 (C) If the objectives were determined using a
16 site specific risk assessment procedure, whether the
17 procedure used is nationally recognized and
18 accepted, whether the calculations were accurately
19 performed, and whether the site specific data
20 reflect actual site conditions.

21 (3) Remedial Action Plans and related activities:
22 Whether the plan will result in compliance with this
23 Title, and rules adopted under it and attainment of the
24 applicable remediation objectives. In making the
25 determination, the following factors shall be considered:

26 (A) The likelihood that the plan will result
27 in the attainment of the applicable remediation
28 objectives;

29 (B) Whether the activities proposed are
30 consistent with generally accepted engineering
31 practices; and

32 (C) The management of risk relative to any
33 remaining contamination, including but not limited
34 to, provisions for the long-term enforcement,

1 operation, and maintenance of institutional and
2 engineering controls, if relied on.

3 (4) Remedial Action Completion Reports and related
4 activities: Whether the remedial activities have been
5 completed in accordance with the approved Remedial Action
6 Plan and whether the applicable remediation objectives
7 have been attained.

8 (f) All plans and reports submitted for review shall
9 include a Licensed Professional Engineer's certification that
10 all investigations and remedial activities were carried out
11 under his or her direction and, to the best of his or her
12 knowledge and belief, the work described in the plan or
13 report has been completed in accordance with generally
14 accepted engineering practices, and the information presented
15 is accurate and complete.

16 (g) In accordance with Section 58.11, the Agency shall
17 propose and the Board shall adopt rules to carry out the
18 purposes of this Section. At a minimum, the rules shall
19 detail the types of services the Agency may provide in
20 response to requests under subdivision (b) (1) of this
21 Section and the recordkeeping it will utilize in documenting
22 to the RA the costs incurred by the Agency in providing such
23 services. Until the Board adopts the rules, the Agency may
24 continue to offer services of the type offered under
25 subsections (m) and (n) of Section 22.2 of this Act prior to
26 their repeal.

27 (h) Public participation.

28 (1) The Agency shall develop guidance to assist
29 RA's in the implementation of a community relations plan
30 to address activity at sites undergoing remedial action
31 pursuant to this Title.

32 (2) The RA may elect to enter into a services
33 agreement with the Agency for Agency assistance in
34 community outreach efforts.

1 (3) The Agency shall maintain a registry listing
2 those sites undergoing remedial action pursuant to this
3 Title.

4 (4) Notwithstanding any provisions of this Section,
5 the RA of a site undergoing remedial activity pursuant to
6 this Title may elect to initiate a community outreach
7 effort for the site.

8 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
9 89-626, eff. 8-9-96.)

10 (415 ILCS 5/58.11)

11 Sec. 58.11. Regulations and Site Remediation Advisory
12 Committee.

13 (a) There is hereby established a 10-member Site
14 Remediation Advisory Committee, which shall be appointed by
15 the Governor. The Committee shall include one member
16 recommended by the Illinois State Chamber of Commerce, one
17 member recommended by the Illinois Manufacturers'
18 Association, one member recommended by the Chemical Industry
19 Council of Illinois, one member recommended by the Consulting
20 Engineers Council of Illinois, one member recommended by the
21 Illinois Bankers Association, one member recommended by the
22 Community Bankers Association of Illinois, one member
23 recommended by the National Solid Waste Management
24 Association, and 3 other members as determined by the
25 Governor. Members of the Advisory Committee may organize
26 themselves as they deem necessary and shall serve without
27 compensation.

28 (b) The Committee shall:

29 (1) Review, evaluate, and make recommendations
30 regarding State laws, rules, and procedures that relate
31 to site remediations.

32 (2) Review, evaluate, and make recommendations
33 regarding the review and approval activities of the

1 Agency and Review and Evaluation Licensed Professional
2 Engineers and Geologists.

3 (3) Make recommendations relating to the State's
4 efforts to implement this Title.

5 (4) Review, evaluate, and make recommendations
6 regarding the procedures for determining proportionate
7 degree of responsibility for a release of regulated
8 substances.

9 (5) Review, evaluate, and make recommendations
10 regarding the reports prepared by the Agency in
11 accordance with subsection (e) of this Section.

12 (c) Within 9 months after the effective date of this
13 amendatory Act of 1995, the Agency, after consideration of
14 the recommendations of the Committee, shall propose rules
15 prescribing procedures and standards for its administration
16 of this Title. Within 9 months after receipt of the Agency's
17 proposed rules, the Board shall adopt, pursuant to Sections
18 27 and 28 of this Act, rules that are consistent with this
19 Title, including classifications of land use and provisions
20 for the avoidance of No Further Remediation Letters.

21 (d) Until such time as the rules required under this
22 Section take effect, the Agency shall administer its
23 activities under this Title in accordance with Agency
24 procedures and applicable provisions of this Act.

25 (e) By July 1, 1997 and as deemed appropriate
26 thereafter, the Agency shall prepare reports to the Governor
27 and the General Assembly concerning the status of all sites
28 for which the Agency has expended money from the Hazardous
29 Waste Fund. The reports shall include specific information
30 on the financial, technical, and cost recovery status of each
31 site.

32 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
33 89-626, eff. 8-9-96.)

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

3 AMENDMENT TO SENATE BILL 1968

4 AMENDMENT NO. _____. Amend Senate Bill 1968 by replacing
5 everything after the enacting clause with the following:

6 "Section 5. The Environmental Protection Act is amended
7 by changing Sections 57.2, 57.7, 57.8, 57.10, 58.2, 58.6,
8 58.7, and 58.11 as follows:

9 (415 ILCS 5/57.2)

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

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

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

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

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

24 "Fund" means the Underground Storage Tank Fund.

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

29 "Indemnification" means indemnification of an owner or
30 operator for the amount of any judgment entered against the
31 owner or operator in a court of law, for the amount of any
32 final order or determination made against the owner or

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

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

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

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

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

28 "Licensed Professional Geologist" means a person licensed
29 under the laws of the State of Illinois to practice as a
30 professional geologist.

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

34 "Physical soil classification" means verification that

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

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

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

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

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

24 (415 ILCS 5/57.7)

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

28 (a) Physical soil classification and groundwater
29 investigation.

30 (1) Prior to conducting any physical soil
31 classification and groundwater investigation activities
32 required by statute or regulation, the owner or operator
33 shall prepare and submit to the Agency for the Agency's

1 approval or modification:

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

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

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

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

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

29 (B) a certification by a Licensed Professional
30 Engineer or Licensed Professional Geologist of the
31 site's classification as High Priority, Low
32 Priority, or No Further Action in accordance with
33 subsection (b) of this Section as High Priority, Low
34 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, and general site information, the site
5 shall be classified as "No Further Action", "Low
6 Priority", or "High Priority" based on the requirements
7 of this Section. Site classification shall be determined
8 by a Licensed Professional Engineer or Licensed
9 Professional Geologist in accordance with the
10 requirements of this Title and the Licensed Professional
11 Engineer or Licensed Professional Geologist shall submit
12 a certification to the Agency of the site classification.
13 The Agency has the authority to audit site
14 classifications and reject or modify any site
15 classification inconsistent with the requirements of this
16 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, E, F and G on the Illinois Geological
21 Survey Circular (1984) titled "Potential for
22 Contamination of Shallow Aquifers in Illinois," by
23 Berg, Richard C., et al.;

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

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

34 (B) Groundwater investigation monitoring may

1 be required to confirm that a site meets the
2 criteria of a No Further Action site. The Board
3 shall adopt rules setting forth the criteria under
4 which the Agency may exercise its discretionary
5 authority to require investigations and the minimum
6 field requirements for conducting investigations.

7 (3) Sites shall be classified as High Priority if
8 any of the following are met:

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

29 (B) The underground storage tank is within the
30 minimum or maximum setback zone of a potable water
31 supply well or regulated recharge area of a potable
32 water supply well.

33 (C) There is evidence that, through natural or
34 manmade pathways, migration of petroleum or vapors

1 threaten human health or human safety or may cause
2 explosions in basements, crawl spaces, utility
3 conduits, storm or sanitary sewers, vaults or other
4 confined spaces.

5 (D) Class III special resource groundwater
6 exists within 200 feet of the excavation.

7 (E) A surface water body is adversely affected
8 by the presence of a visible sheen or free product
9 layer as the result of an underground storage tank
10 release.

11 (4) Sites shall be classified as Low Priority if
12 all of the following are met:

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

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

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

29 (iii) the results of the physical soil
30 classification and groundwater investigation do not
31 indicate an applicable indicator contaminant
32 groundwater quality standard or groundwater
33 objective has been exceeded at the property boundary
34 line or 200 feet from the underground storage tank,

1 whichever is less.

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

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

16 (c) Corrective Action.

17 (1) High Priority Site.

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

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

1 with the implementation and completion of the
2 corrective action plan.

3 (C) The corrective action plan shall do all of
4 the following:

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

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

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

31 (iv) Remediate threats to a potable water
32 supply.

33 (v) Remediate threats to a surface water
34 body.

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

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

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

1 basements, crawl spaces, utility conduits,
2 storm or sanitary sewers, vaults or other
3 confined spaces; (d) the underground storage
4 tank release does not threaten any surface
5 water body; and (e) the underground storage
6 tank release does not threaten any potable
7 water supply.

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

15 (2) Low Priority Site.

16 (A) Corrective action at a low priority site
17 must include groundwater monitoring consistent with
18 part (B) of this paragraph (2).

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

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

30 (ii) Quarterly groundwater sampling for a
31 period of one year, semi-annual sampling for
32 the second year and annual groundwater sampling
33 for one subsequent year for all indicator
34 contaminants identified during the groundwater

1 investigation.

2 (iii) The annual submittal to the Agency
3 of a summary of groundwater sampling results.

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

26 (D) If, throughout the implementation of the
27 groundwater monitoring plan, the groundwater
28 sampling results do not confirm an exceedence of
29 applicable indicator contaminant groundwater quality
30 standards or groundwater objectives as a result of
31 the underground storage tank release, the owner or
32 operator shall submit to the Agency a certification
33 of a Licensed Professional Engineer or Licensed
34 Professional Geologist so stating.

1 (E) Unless the Agency takes action under
2 subsection (b)(2)(C) to reclassify a site as high
3 priority, upon receipt of a certification by a
4 Licensed Professional Engineer or Licensed
5 Professional Geologist submitted pursuant to
6 paragraph (2) of subsection (c) of this Section, the
7 Agency shall issue to the owner or operator a no
8 further remediation letter in accordance with
9 Section 57.10.

10 (3) No Further Action Site.

11 (A) No Further Action sites require no
12 remediation beyond that required in Section 57.6 and
13 subsection (a) of this Section if the owner or
14 operator has submitted to the Agency a certification
15 by a Licensed Professional Engineer or Licensed
16 Professional Geologist that the site meets all of
17 the criteria for classification as No Further Action
18 in subsection (b) of this Section.

19 (B) Unless the Agency takes action to reject
20 or modify a site classification under subsection (b)
21 of this Section or the site classification is
22 rejected by operation of law under item (4)(B) of
23 subsection (c) of this Section, upon receipt of a
24 certification by a Licensed Professional Engineer or
25 Licensed Professional Geologist submitted pursuant
26 to part (A) of paragraph (3) of subsection (c) of
27 this Section, the Agency shall issue to the owner or
28 operator a no further remediation letter in
29 accordance with Section 57.10.

30 (4) Agency review and approval.

31 (A) Agency approval of any plan and associated
32 budget, as described in this item (4), shall be
33 considered final approval for purposes of seeking
34 and obtaining payment from the Underground Storage

1 Tank Fund if the costs associated with the
2 completion of any such plan are less than or equal
3 to the amounts approved in such budget.

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

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

23 (ii) For purposes of those plans
24 submitted pursuant to Part (E) (iii) of this
25 paragraph (4) for which payment from the Fund
26 is not being sought, the Agency need not take
27 action on such plan until 120 days after it
28 receives the corrective action completion
29 report required under Section 57(c)(1)(D). In
30 the event the Agency approved the plan, it
31 shall proceed under the provisions of Section
32 57(c)(4).

33 (C) In approving any plan submitted pursuant
34 to Part (E) of this paragraph (4), the Agency shall

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

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

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

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

26 (iii) an explanation of the specific type
27 of information, if any, which the Agency deems
28 the applicant did not provide the Agency; and

29 (iv) a statement of specific reasons why
30 the Act and the regulations might not be met if
31 the plan were approved.

32 Any action by the Agency to disapprove or
33 modify a plan or report or the rejection of any plan
34 or report by operation of law shall be subject to

1 appeal to the Board in accordance with the
2 procedures of Section 40. If the owner or operator
3 elects to incorporate modifications required by the
4 Agency rather than appeal, an amended plan shall be
5 submitted to the Agency within 35 days of receipt of
6 the Agency's written notification.

7 (E) For purposes of this Title, the term
8 "plan" shall include:

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 (c)(2)(B) of this Section;

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

20 (iv) Any corrective action plan budget
21 submitted pursuant to subsection (c)(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 physical soil
6 classification, groundwater investigation, site
7 classification or other corrective action prior to the
8 submittal or approval of an otherwise required plan. If
9 the owner or operator elects to so proceed, an applicable
10 plan shall be filed with the Agency at any time. Such
11 plan shall detail the steps taken to determine the type
12 of corrective action which was necessary at the site
13 along with the corrective action taken or to be taken, in
14 addition to costs associated with activities to date and
15 anticipated costs.

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

25 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff.
26 1-1-96; 89-457, eff. 5-22-96; revised 1-25-02.)

27 (415 ILCS 5/57.8)

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

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

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

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

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

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

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

31 (5) In the event that costs are or will be incurred
32 in addition to those approved by the Agency, or after
33 payment, the owner or operator may submit successive
34 plans containing amended budgets. The requirements of

1 Section 57.7 shall apply to any amended plans.

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

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

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

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

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

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

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

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

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

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

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

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

Amount	Number of Tanks
\$1,000,000.....	fewer than 101

1 \$2,000,000.....101 or more

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (m) The Agency may apportion payment of costs for plans
34 submitted under Section 57.7(c)(4)(E)(iii) if:

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

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

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

9 (415 ILCS 5/57.10)

10 Sec. 57.10. Professional Engineer or Professional
11 Geologist certification; presumptions against liability.

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

20 (b) By certifying such a statement, a Licensed
21 Professional Engineer or Licensed Professional Geologist
22 shall in no way be liable thereon, unless the engineer or
23 geologist gave such certification despite his or her actual
24 knowledge that the performed measures were not in compliance
25 with applicable statutory or regulatory requirements or any
26 plan submitted to the Agency.

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

30 (1) all statutory and regulatory corrective
31 action requirements applicable to the occurrence have
32 been complied with;

33 (2) all corrective action concerning the

1 remediation of the occurrence has been completed; and

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

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

7 (1) The owner or operator to whom the letter was
8 issued.

9 (2) Any parent corporation or subsidiary of such
10 owner or operator.

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

15 (4) Any holder of a beneficial interest of a land
16 trust or inter vivos trust whether revocable or
17 irrevocable.

18 (5) Any mortgagee or trustee of a deed of trust of
19 such owner or operator.

20 (6) Any successor-in-interest of such owner or
21 operator.

22 (7) Any transferee of such owner or operator
23 whether the transfer was by sale, bankruptcy proceeding,
24 partition, dissolution of marriage, settlement or
25 adjudication of any civil action, charitable gift, or
26 bequest.

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

28 (e) If the Agency notifies the owner or operator that
29 the "no further remediation" letter has been rejected, the
30 grounds for such rejection shall be described in the notice.
31 Such a decision shall be a final determination which may be
32 appealed by the owner or operator.

33 (f) The Board shall adopt rules setting forth the
34 criteria under which the Agency may require an owner or

1 operator to conduct further investigation or remediation
2 related to a release for which a no further remediation
3 letter has been issued.

4 (g) Holders of security interests in sites subject to
5 the requirements of this Title XVI shall be entitled to the
6 same protections and subject to the same responsibilities
7 provided under general regulations promulgated under Subtitle
8 I of the Hazardous and Solid Waste Amendments of 1984 (P.L.
9 98-616) of the Resource Conservation and Recovery Act of 1976
10 (P.L. 94-580).
11 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
12 5-22-96.)

13 (415 ILCS 5/58.2)

14 Sec. 58.2. Definitions. The following words and phrases
15 when used in this Title shall have the meanings given to them
16 in this Section unless the context clearly indicates
17 otherwise:

18 "Agrichemical facility" means a site on which
19 agricultural pesticides are stored or handled, or both, in
20 preparation for end use, or distributed. The term does not
21 include basic manufacturing facility sites.

22 "ASTM" means the American Society for Testing and
23 Materials.

24 "Area background" means concentrations of regulated
25 substances that are consistently present in the environment
26 in the vicinity of a site that are the result of natural
27 conditions or human activities, and not the result solely of
28 releases at the site.

29 "Brownfields site" or "brownfields" means a parcel of
30 real property, or a portion of the parcel, that has actual or
31 perceived contamination and an active potential for
32 redevelopment.

33 "Class I groundwater" means groundwater that meets the

1 Class I Potable Resource groundwater criteria set forth in
2 the Board rules adopted under the Illinois Groundwater
3 Protection Act.

4 "Class III groundwater" means groundwater that meets the
5 Class III Special Resource Groundwater criteria set forth in
6 the Board rules adopted under the Illinois Groundwater
7 Protection Act.

8 "Carcinogen" means a contaminant that is classified as a
9 Category A1 or A2 Carcinogen by the American Conference of
10 Governmental Industrial Hygienists; or a Category 1 or 2A/2B
11 Carcinogen by the World Health Organizations International
12 Agency for Research on Cancer; or a "Human Carcinogen" or
13 "Anticipated Human Carcinogen" by the United States
14 Department of Health and Human Service National Toxicological
15 Program; or a Category A or B1/B2 Carcinogen by the United
16 States Environmental Protection Agency in Integrated Risk
17 Information System or a Final Rule issued in a Federal
18 Register notice by the USEPA as of the effective date of this
19 amendatory Act of 1995.

20 "Licensed Professional Engineer" (LPE) means a person,
21 corporation, or partnership licensed under the laws of this
22 State to practice professional engineering.

23 "Licensed Professional Geologist" means a person licensed
24 under the laws of the State of Illinois to practice as a
25 professional geologist.

26 "RELPEG" means a Licensed Professional Engineer or a
27 Licensed Professional Geologist engaged in review and
28 evaluation under this Title.

29 "Man-made pathway" means constructed routes that may
30 allow for the transport of regulated substances including,
31 but not limited to, sewers, utility lines, utility vaults,
32 building foundations, basements, crawl spaces, drainage
33 ditches, or previously excavated and filled areas.

34 "Municipality" means an incorporated city, village, or

1 town in this State. "Municipality" does not mean a township,
2 town when that term is used as the equivalent of a township,
3 incorporated town that has superseded a civil township,
4 county, or school district, park district, sanitary district,
5 or similar governmental district.

6 "Natural pathway" means natural routes for the transport
7 of regulated substances including, but not limited to, soil,
8 groundwater, sand seams and lenses, and gravel seams and
9 lenses.

10 "Person" means individual, trust, firm, joint stock
11 company, joint venture, consortium, commercial entity,
12 corporation (including a government corporation),
13 partnership, association, State, municipality, commission,
14 political subdivision of a State, or any interstate body
15 including the United States Government and each department,
16 agency, and instrumentality of the United States.

17 "Regulated substance" means any hazardous substance as
18 defined under Section 101(14) of the Comprehensive
19 Environmental Response, Compensation, and Liability Act of
20 1980 (P.L. 96-510) and petroleum products including crude oil
21 or any fraction thereof, natural gas, natural gas liquids,
22 liquefied natural gas, or synthetic gas usable for fuel (or
23 mixtures of natural gas and such synthetic gas).

24 "Remedial action" means activities associated with
25 compliance with the provisions of Sections 58.6 and 58.7.

26 "Remediation Applicant" (RA) means any person seeking to
27 perform or performing investigative or remedial activities
28 under this Title, including the owner or operator of the site
29 or persons authorized by law or consent to act on behalf of
30 or in lieu of the owner or operator of the site.

31 "Remediation costs" means reasonable costs paid for
32 investigating and remediating regulated substances of concern
33 consistent with the remedy selected for a site. For purposes
34 of Section 58.14, "remediation costs" shall not include costs

1 incurred prior to January 1, 1998, costs incurred after the
2 issuance of a No Further Remediation Letter under Section
3 58.10 of this Act, or costs incurred more than 12 months
4 prior to acceptance into the Site Remediation Program.

5 "Residential property" means any real property that is
6 used for habitation by individuals and other property uses
7 defined by Board rules such as education, health care, child
8 care and related uses.

9 "Site" means any single location, place, tract of land or
10 parcel of property, or portion thereof, including contiguous
11 property separated by a public right-of-way.

12 "Regulated substance of concern" means any contaminant
13 that is expected to be present at the site based upon past
14 and current land uses and associated releases that are known
15 to the Remediation Applicant based upon reasonable inquiry.

16 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
17 90-123, eff. 7-21-97.)

18 (415 ILCS 5/58.6)

19 Sec. 58.6. Remedial investigations and reports.

20 (a) Any RA who proceeds under this Title may elect to
21 seek review and approval for any of the remediation
22 objectives provided in Section 58.5 for any or all regulated
23 substances of concern. The RA shall conduct investigations
24 and remedial activities for regulated substances of concern
25 and prepare plans and reports in accordance with this Section
26 and rules adopted hereunder. The RA shall submit the plans
27 and reports for review and approval in accordance with
28 Section 58.7. All investigations, plans, and reports
29 conducted or prepared under this Section shall be under the
30 supervision of a Licensed Professional Engineer (LPE) or, in
31 the case of a site investigation only, a Licensed
32 Professional Geologist in accordance with the requirements of
33 this Title.

1 (b) (1) Site investigation and Site Investigation
2 Report. The RA shall conduct a site investigation to
3 determine the significant physical features of the site
4 and vicinity that may affect contaminant transport and
5 risk to human health, safety, and the environment and to
6 determine the nature, concentration, direction and rate
7 of movement, and extent of the contamination at the site.

8 (2) The RA shall compile the results of the
9 investigations into a Site Investigation Report. At a
10 minimum, the reports shall include the following, as
11 applicable:

12 (A) Executive summary;

13 (B) Site history;

14 (C) Site-specific sampling methods and
15 results;

16 (D) Documentation of field activities,
17 including quality assurance project plan;

18 (E) Interpretation of results; and

19 (F) Conclusions.

20 (c) Remediation Objectives Report.

21 (1) If a RA elects to determine remediation
22 objectives appropriate for the site using the Tier II or
23 Tier III procedures under subsection (d) of Section
24 58.5, the RA shall develop such remediation objectives
25 based on site-specific information. In support of such
26 remediation objectives, the RA shall prepare a
27 Remediation Objectives Report demonstrating how the
28 site-specific objectives were calculated or otherwise
29 determined.

30 (2) If a RA elects to determine remediation
31 objectives appropriate for the site using the area
32 background procedures under subsection (b) of Section
33 58.5, the RA shall develop such remediation objectives
34 based on site-specific literature review, sampling

1 protocol, or appropriate statistical methods in
2 accordance with Board rules. In support of such
3 remediation objectives, the RA shall prepare a
4 Remediation Objectives Report demonstrating how the area
5 background remediation objectives were determined.

6 (d) Remedial Action Plan. If the approved remediation
7 objectives for any regulated substance established under
8 Section 58.5 are less than the levels existing at the site
9 prior to any remedial action, the RA shall prepare a Remedial
10 Action Plan. The Remedial Action Plan shall describe the
11 selected remedy and evaluate its ability and effectiveness to
12 achieve the remediation objectives approved for the site. At
13 a minimum, the reports shall include the following, as
14 applicable:

- 15 (1) Executive summary;
- 16 (2) Statement of remediation objectives;
- 17 (3) Remedial technologies selected;
- 18 (4) Confirmation sampling plan;
- 19 (5) Current and projected future use of the
20 property; and
- 21 (6) Applicable preventive, engineering, and
22 institutional controls including long-term reliability,
23 operating, and maintenance plans, and monitoring
24 procedures.

25 (e) Remedial Action Completion Report.

26 (1) Upon completion of the Remedial Action Plan,
27 the RA shall prepare a Remedial Action Completion Report.
28 The report shall demonstrate whether the remedial action
29 was completed in accordance with the approved Remedial
30 Action Plan and whether the remediation objectives, as
31 well as any other requirements of the plan, have been
32 attained.

33 (2) If the approved remediation objectives for the
34 regulated substances of concern established under Section

1 58.5 are equal to or above the levels existing at the
2 site prior to any remedial action, notification and
3 documentation of such shall constitute the entire
4 Remedial Action Completion Report for purposes of this
5 Title.

6 (f) Ability to proceed. The RA may elect to prepare and
7 submit for review and approval any and all reports or plans
8 required under the provisions of this Section individually,
9 following completion of each such activity; concurrently,
10 following completion of all activities; or in any other
11 combination. In any event, the review and approval process
12 shall proceed in accordance with Section 58.7 and rules
13 adopted thereunder.

14 (g) Nothing in this Section shall prevent an RA from
15 implementing or conducting an interim or any other remedial
16 measure prior to election to proceed under Section 58.6.

17 (h) In accordance with Section 58.11, the Agency shall
18 propose and the Board shall adopt rules to carry out the
19 purposes of this Section.

20 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96.)

21 (415 ILCS 5/58.7)

22 Sec. 58.7. Review and approvals.

23 (a) Requirements. All plans and reports that are
24 submitted pursuant to this Title shall be submitted for
25 review or approval in accordance with this Section.

26 (b) Review and evaluation by the Agency.

27 (1) Except for sites excluded under subdivision (a)
28 (2) of Section 58.1, the Agency shall, subject to
29 available resources, agree to provide review and
30 evaluation services for activities carried out pursuant
31 to this Title for which the RA requested the services in
32 writing. As a condition for providing such services, the
33 Agency may require that the RA for a site:

1 (A) Conform with the procedures of this Title;

2 (B) Allow for or otherwise arrange site visits
3 or other site evaluation by the Agency when so
4 requested;

5 (C) Agree to perform the work plan as approved
6 under this Title;

7 (D) Agree to pay any reasonable costs incurred
8 and documented by the Agency in providing such
9 services;

10 (E) Make an advance partial payment to the
11 Agency for such anticipated services in an amount,
12 acceptable to the Agency, but not to exceed \$5,000
13 or one-half of the total anticipated costs of the
14 Agency, whichever sum is less; and

15 (F) Demonstrate, if necessary, authority to
16 act on behalf of or in lieu of the owner or
17 operator.

18 (2) Any moneys received by the State for costs
19 incurred by the Agency in performing review or evaluation
20 services for actions conducted pursuant to this Title
21 shall be deposited in the Hazardous Waste Fund.

22 (3) An RA requesting services under subdivision (b)
23 (1) of this Section may, at any time, notify the Agency,
24 in writing, that Agency services previously requested are
25 no longer wanted. Within 180 days after receipt of the
26 notice, the Agency shall provide the RA with a final
27 invoice for services provided until the date of such
28 notifications.

29 (4) The Agency may invoice or otherwise request or
30 demand payment from a RA for costs incurred by the Agency
31 in performing review or evaluation services for actions
32 by the RA at sites only if:

33 (A) The Agency has incurred costs in
34 performing response actions, other than review or

1 evaluation services, due to the failure of the RA to
2 take response action in accordance with a notice
3 issued pursuant to this Act;

4 (B) The RA has agreed in writing to the
5 payment of such costs;

6 (C) The RA has been ordered to pay such costs
7 by the Board or a court of competent jurisdiction
8 pursuant to this Act; or

9 (D) The RA has requested or has consented to
10 Agency review or evaluation services under
11 subdivision (b) (1) of this Section.

12 (5) The Agency may, subject to available resources,
13 agree to provide review and evaluation services for
14 response actions if there is a written agreement among
15 parties to a legal action or if a notice to perform a
16 response action has been issued by the Agency.

17 (c) Review and evaluation by a Licensed Professional
18 Engineer or Licensed Professional Geologist. A RA may elect
19 to contract with a Licensed Professional Engineer or, in the
20 case of a site investigation report only, a Licensed
21 Professional Geologist, who will perform review and
22 evaluation services on behalf of and under the direction of
23 the Agency relative to the site activities.

24 (1) Prior to entering into the contract with the
25 RELPEG ~~Review--and--Evaluation---Licensed---Professional~~
26 ~~Engineer--(RELPE)~~, the RA shall notify the Agency of the
27 RELPEG RELPE to be selected. The Agency and the RA shall
28 discuss the potential terms of the contract.

29 (2) At a minimum, the contract with the RELPEG
30 RELPE shall provide that the RELPEG RELPE will submit
31 any reports directly to the Agency, will take his or her
32 directions for work assignments from the Agency, and will
33 perform the assigned work on behalf of the Agency.

34 (3) Reasonable costs incurred by the Agency shall

1 be paid by the RA directly to the Agency in accordance
2 with the terms of the review and evaluation services
3 agreement entered into under subdivision (b) (1) of
4 Section 58.7.

5 (4) In no event shall the RELPEG RELPE acting on
6 behalf of the Agency be an employee of the RA or the
7 owner or operator of the site or be an employee of any
8 other person the RA has contracted to provide services
9 relative to the site.

10 (d) Review and approval. All reviews required under
11 this Title shall be carried out by the Agency or a RELPEG
12 RELPE, both under the direction of a Licensed Professional
13 Engineer or, in the case of the review of a site
14 investigation only, a Licensed Professional Geologist.

15 (1) All review activities conducted by the Agency
16 or a RELPEG RELPE shall be carried out in conformance
17 with this Title and rules promulgated under Section
18 58.11.

19 (2) Subject to the limitations in subsection (c)
20 and this subsection (d), the specific plans, reports, and
21 activities that which the Agency or a RELPEG RELPE may
22 review include:

23 (A) Site Investigation Reports and related
24 activities;

25 (B) Remediation Objectives Reports;

26 (C) Remedial Action Plans and related
27 activities; and

28 (D) Remedial Action Completion Reports and
29 related activities.

30 (3) Only the Agency shall have the authority to
31 approve, disapprove, or approve with conditions a plan
32 or report as a result of the review process including
33 those plans and reports reviewed by a RELPEG RELPE. If
34 the Agency disapproves a plan or report or approves a

1 plan or report with conditions, the written notification
2 required by subdivision (d) (4) of this Section shall
3 contain the following information, as applicable:

4 (A) An explanation of the Sections of this
5 Title that may be violated if the plan or report was
6 approved;

7 (B) An explanation of the provisions of the
8 rules promulgated under this Title that may be
9 violated if the plan or report was approved;

10 (C) An explanation of the specific type of
11 information, if any, that the Agency deems the
12 applicant did not provide the Agency;

13 (D) A statement of specific reasons why the
14 Title and regulations might not be met if the plan
15 or report were approved; and

16 (E) An explanation of the reasons for
17 conditions if conditions are required.

18 (4) Upon approving, disapproving, or approving with
19 conditions a plan or report, the Agency shall notify the
20 RA in writing of its decision. In the case of approval
21 or approval with conditions of a Remedial Action
22 Completion Report, the Agency shall prepare a No Further
23 Remediation Letter that meets the requirements of Section
24 58.10 and send a copy of the letter to the RA.

25 (5) All reviews undertaken by the Agency or a
26 RELPEG RELPE shall be completed and the decisions
27 communicated to the RA within 60 days of the request for
28 review or approval. The RA may waive the deadline upon a
29 request from the Agency. If the Agency disapproves or
30 approves with conditions a plan or report or fails to
31 issue a final decision within the 60 day period and the
32 RA has not agreed to a waiver of the deadline, the RA
33 may, within 35 days, file an appeal to the Board.
34 Appeals to the Board shall be in the manner provided for

1 the review of permit decisions in Section 40 of this Act.

2 (e) Standard of review. In making determinations, the
3 following factors, and additional factors as may be adopted
4 by the Board in accordance with Section 58.11, shall be
5 considered by the Agency when reviewing or approving plans,
6 reports, and related activities, or the RELPEG RELPE, when
7 reviewing plans, reports, and related activities:

8 (1) Site Investigation Reports and related
9 activities: Whether investigations have been conducted
10 and the results compiled in accordance with the
11 appropriate procedures and whether the interpretations
12 and conclusions reached are supported by the information
13 gathered. In making the determination, the following
14 factors shall be considered:

15 (A) The adequacy of the description of the
16 site and site characteristics that were used to
17 evaluate the site;

18 (B) The adequacy of the investigation of
19 potential pathways and risks to receptors identified
20 at the site; and

21 (C) The appropriateness of the sampling and
22 analysis used.

23 (2) Remediation Objectives Reports: Whether the
24 remediation objectives are consistent with the
25 requirements of the applicable method for selecting or
26 determining remediation objectives under Section 58.5.
27 In making the determination, the following factors shall
28 be considered:

29 (A) If the objectives were based on the
30 determination of area background levels under
31 subsection (b) of Section 58.5, whether the review
32 of current and historic conditions at or in the
33 immediate vicinity of the site has been thorough and
34 whether the site sampling and analysis has been

1 performed in a manner resulting in accurate
2 determinations;

3 (B) If the objectives were calculated on the
4 basis of predetermined equations using site specific
5 data, whether the calculations were accurately
6 performed and whether the site specific data reflect
7 actual site conditions; and

8 (C) If the objectives were determined using a
9 site specific risk assessment procedure, whether the
10 procedure used is nationally recognized and
11 accepted, whether the calculations were accurately
12 performed, and whether the site specific data
13 reflect actual site conditions.

14 (3) Remedial Action Plans and related activities:
15 Whether the plan will result in compliance with this
16 Title, and rules adopted under it and attainment of the
17 applicable remediation objectives. In making the
18 determination, the following factors shall be considered:

19 (A) The likelihood that the plan will result
20 in the attainment of the applicable remediation
21 objectives;

22 (B) Whether the activities proposed are
23 consistent with generally accepted engineering
24 practices; and

25 (C) The management of risk relative to any
26 remaining contamination, including but not limited
27 to, provisions for the long-term enforcement,
28 operation, and maintenance of institutional and
29 engineering controls, if relied on.

30 (4) Remedial Action Completion Reports and related
31 activities: Whether the remedial activities have been
32 completed in accordance with the approved Remedial Action
33 Plan and whether the applicable remediation objectives
34 have been attained.

1 (f) All plans and reports submitted for review shall
2 include a Licensed Professional Engineer's certification that
3 all investigations and remedial activities were carried out
4 under his or her direction and, to the best of his or her
5 knowledge and belief, the work described in the plan or
6 report has been completed in accordance with generally
7 accepted engineering practices, and the information presented
8 is accurate and complete.

9 (g) In accordance with Section 58.11, the Agency shall
10 propose and the Board shall adopt rules to carry out the
11 purposes of this Section. At a minimum, the rules shall
12 detail the types of services the Agency may provide in
13 response to requests under subdivision (b) (1) of this
14 Section and the recordkeeping it will utilize in documenting
15 to the RA the costs incurred by the Agency in providing such
16 services. Until the Board adopts the rules, the Agency may
17 continue to offer services of the type offered under
18 subsections (m) and (n) of Section 22.2 of this Act prior to
19 their repeal.

20 (h) Public participation.

21 (1) The Agency shall develop guidance to assist
22 RA's in the implementation of a community relations plan
23 to address activity at sites undergoing remedial action
24 pursuant to this Title.

25 (2) The RA may elect to enter into a services
26 agreement with the Agency for Agency assistance in
27 community outreach efforts.

28 (3) The Agency shall maintain a registry listing
29 those sites undergoing remedial action pursuant to this
30 Title.

31 (4) Notwithstanding any provisions of this Section,
32 the RA of a site undergoing remedial activity pursuant to
33 this Title may elect to initiate a community outreach
34 effort for the site.

1 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
2 89-626, eff. 8-9-96.)

3 (415 ILCS 5/58.11)

4 Sec. 58.11. Regulations and Site Remediation Advisory
5 Committee.

6 (a) There is hereby established a 10-member Site
7 Remediation Advisory Committee, which shall be appointed by
8 the Governor. The Committee shall include one member
9 recommended by the Illinois State Chamber of Commerce, one
10 member recommended by the Illinois Manufacturers'
11 Association, one member recommended by the Chemical Industry
12 Council of Illinois, one member recommended by the Consulting
13 Engineers Council of Illinois, one member recommended by the
14 Illinois Bankers Association, one member recommended by the
15 Community Bankers Association of Illinois, one member
16 recommended by the National Solid Waste Management
17 Association, and 3 other members as determined by the
18 Governor. Members of the Advisory Committee may organize
19 themselves as they deem necessary and shall serve without
20 compensation.

21 (b) The Committee shall:

22 (1) Review, evaluate, and make recommendations
23 regarding State laws, rules, and procedures that relate
24 to site remediations.

25 (2) Review, evaluate, and make recommendations
26 regarding the review and approval activities of the
27 Agency and Review and Evaluation Licensed Professional
28 Engineers and Geologists.

29 (3) Make recommendations relating to the State's
30 efforts to implement this Title.

31 (4) Review, evaluate, and make recommendations
32 regarding the procedures for determining proportionate
33 degree of responsibility for a release of regulated

1 substances.

2 (5) Review, evaluate, and make recommendations
3 regarding the reports prepared by the Agency in
4 accordance with subsection (e) of this Section.

5 (c) Within 9 months after the effective date of this
6 amendatory Act of 1995, the Agency, after consideration of
7 the recommendations of the Committee, shall propose rules
8 prescribing procedures and standards for its administration
9 of this Title. Within 9 months after receipt of the Agency's
10 proposed rules, the Board shall adopt, pursuant to Sections
11 27 and 28 of this Act, rules that are consistent with this
12 Title, including classifications of land use and provisions
13 for the avoidance of No Further Remediation Letters.

14 (d) Until such time as the rules required under this
15 Section take effect, the Agency shall administer its
16 activities under this Title in accordance with Agency
17 procedures and applicable provisions of this Act.

18 (e) By July 1, 1997 and as deemed appropriate
19 thereafter, the Agency shall prepare reports to the Governor
20 and the General Assembly concerning the status of all sites
21 for which the Agency has expended money from the Hazardous
22 Waste Fund. The reports shall include specific information
23 on the financial, technical, and cost recovery status of each
24 site.

25 (Source: P.A. 89-431, eff. 12-15-95; 89-443, eff. 7-1-96;
26 89-626, eff. 8-9-96.)

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