



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2794

Introduced 2/4/2020, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/57.5  
415 ILCS 5/57.8  
415 ILCS 5/57.9

Amends the Environmental Protection Act. Provides that for an underground storage tank release reported on or after the effective date of the amendatory Act, an owner or operator may access the Underground Storage Tank Fund for costs associated with an Environmental Protection Agency approved plan, and the Agency shall approve the payment of costs associated with corrective action without the application of a deductible, except a \$5,000 deductible shall apply to an owner or operator of an underground storage tank that is not registered under the Gasoline Storage Act. Makes changes, applicable to a release reported on or after the effective date, to provisions concerning payments from the Underground Storage Tank Fund for an application for payment from the Fund for an approved plan and budget for a tank that is registered under the Gasoline Storage Act. Provides that if a full payment is not made within specified periods for the applications for these registered tanks, then the Fund must pay the owner or operator 2% interest per month on any unpaid amount until the owner or operator is fully paid. Provides that if the balance in the Underground Storage Tank Fund falls below \$10,000,000 for a period of 6 months, then the 2% percent monthly interest payments shall be suspended until the Fund balance is above \$10,000,000. Makes other changes. Effective January 1, 2021.

LRB101 17144 CPF 66545 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by  
5 changing Sections 57.5, 57.8, and 57.9 as follows:

6 (415 ILCS 5/57.5)

7 Sec. 57.5. Underground Storage Tanks; removal; repair;  
8 abandonment.

9 (a) Notwithstanding the eligibility or the level of  
10 deductibility of an owner or operator under the Underground  
11 Storage Tank Fund, any owner or operator of an Underground  
12 Storage Tank may seek to remove or abandon such tank under the  
13 provisions of this Title. In order to be reimbursed under  
14 Section 57.8, the owner or operator must comply with the  
15 provisions of this Title. Except for interest accrued under  
16 paragraph (2.5) of subsection (a) of Section 57.8, in ~~in~~ no  
17 event will an owner or operator be reimbursed for any costs  
18 which exceed the minimum requirements necessary to comply with  
19 this Title.

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

23 (c) The Office of the State Fire Marshal or a designated

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

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

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

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

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

1 prohibit the Office of the State Fire Marshal from making an  
2 independent inspection of the site and challenging the veracity  
3 of the owner or operator certification.

4 (g) The owner or operator of an underground storage tank  
5 taken out of operation before January 2, 1974, or an  
6 underground storage tank used exclusively to store heating oil  
7 for consumptive use on the premises where stored and which  
8 serves other than a farm or residential unit shall not be  
9 required to remove or abandon in place such underground storage  
10 tank except in the case in which the Office of the State Fire  
11 Marshal has determined that a release from the underground  
12 storage tank poses a current or potential threat to human  
13 health and the environment. In that case, and upon receipt of  
14 an order from the Office of the State Fire Marshal, the owner  
15 or operator of such underground storage tank shall conduct  
16 removal and, if necessary, site investigation and corrective  
17 action in accordance with this Title and regulations  
18 promulgated by the Office of State Fire Marshal and the Board.

19 (h) In the event that a release of petroleum occurred  
20 between September 13, 1993, and August 1, 1994, for which the  
21 Office of the State Fire Marshal issued a certificate of  
22 removal or abandonment based on its determination of "no  
23 release" or "minor release," and the Office of the State Fire  
24 Marshal subsequently has rescinded that determination and  
25 required a report of a confirmed release to the Illinois  
26 Emergency Management Agency, the owner or operator may be

1 eligible for reimbursement for the costs of site investigation  
2 and corrective action incurred on or after the date of the  
3 release but prior to the notification of the Illinois Emergency  
4 Management Agency. The date of the release shall be the date of  
5 the initial inspection by the Office of the State Fire Marshal  
6 as recorded in its inspection log. Eligibility and  
7 deductibility shall be determined in accordance with this  
8 Title, the owner or operator must comply with the provisions of  
9 this Act and its rules, and in no case shall the owner or  
10 operator be reimbursed for costs exceeding the minimum  
11 requirements of this Act and its rules.

12 (Source: P.A. 92-554, eff. 6-24-02.)

13 (415 ILCS 5/57.8)

14 Sec. 57.8. Underground Storage Tank Fund; payment; options  
15 for State payment; deferred correction election to commence  
16 corrective action upon availability of funds. If an owner or  
17 operator is eligible to access the Underground Storage Tank  
18 Fund pursuant to an Office of State Fire Marshal  
19 eligibility/deductible final determination letter issued in  
20 accordance with Section 57.9, the owner or operator may submit  
21 a complete application for final or partial payment to the  
22 Agency for activities taken in response to a confirmed release.  
23 An owner or operator may submit a request for partial or final  
24 payment regarding a site no more frequently than once every 90  
25 days.

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

7           (1) This paragraph applies to a release reported under  
8 Section 57.5 before the effective date of this amendatory  
9 Act of the 101st General Assembly.

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

26           (2) This paragraph applies to a release reported under

1       Section 57.5 before the effective date of this amendatory  
2       Act of the 101st General Assembly. If sufficient funds are  
3       available in the Underground Storage Tank Fund, the Agency  
4       shall, within 60 days, forward to the Office of the State  
5       Comptroller a voucher in the amount approved under the  
6       payment application.

7       (2.5) This paragraph applies to a release reported  
8       under Section 57.5 on or after the effective date of this  
9       amendatory Act of the 101st General Assembly.

10       In the case of an application for an approved plan that  
11       is at or under a budget approved by the Agency for a tank  
12       registered under the Gasoline Storage Act, the Agency shall  
13       have 30 days from receipt of the application to make a  
14       payment determination and, if sufficient funds are  
15       available in the Underground Storage Tank Fund, to forward  
16       to the Office of the State Comptroller a voucher in the  
17       amount approved under the payment application. The  
18       determination shall be considered a final decision. The  
19       Agency's review shall be limited to generally accepted  
20       auditing and accounting practices. In no case shall the  
21       Agency conduct additional review of any plan which was  
22       completed within the budget, beyond auditing for adherence  
23       to the corrective action measures in the proposal. If the  
24       Agency fails to approve the payment application within 30  
25       days, then the application shall be deemed approved by  
26       operation of law and the Agency shall proceed to reimburse



1 the owner or operator the amount requested in the payment  
2 application. If a full payment is not made within 30 days  
3 of receipt of the application, then the Fund must pay the  
4 owner or operator 2% interest per month on any unpaid  
5 amount until the owner or operator is fully paid.

6 In the case of an application for an approved plan that  
7 is over a budget approved by the Agency for a tank that is  
8 registered under the Gasoline Storage Act, the Agency shall  
9 have 60 days from receipt of the application to make a  
10 payment determination and, if sufficient funds are  
11 available in the Underground Storage Tank Fund, 30 days  
12 from the date of the payment determination to forward to  
13 the Office of the State Comptroller a voucher in the amount  
14 approved under the payment application. The determination  
15 shall be considered a final decision. The Agency's review  
16 shall be limited to generally accepted auditing and  
17 accounting practices. In no case shall the Agency conduct  
18 additional review of any plan which was completed within  
19 the budget, beyond auditing for adherence to the corrective  
20 action measures in the proposal. If the Agency fails to  
21 approve the payment application within 60 days, then the  
22 application shall be deemed approved by operation of law  
23 and the Agency shall proceed to reimburse the owner or  
24 operator the amount requested in the payment application.  
25 If a full payment is not made within 30 days of the date  
26 that the voucher is forwarded to the Comptroller, then the

1 Fund must pay the owner or operator 2% interest per month  
2 on any unpaid amount until the owner or operator is fully  
3 paid.

4 Except for interest accrued under this paragraph, in no  
5 event shall the Agency reimburse the owner or operator an  
6 amount greater than the amount approved in the plan.

7 If the balance in the Underground Storage Tank Fund  
8 falls below \$10,000,000 for a period of 6 months, then the  
9 2% percent monthly interest payments under this paragraph  
10 shall be suspended until the Fund balance is above  
11 \$10,000,000.

12 (3) In the case of insufficient funds, the Agency shall  
13 form a priority list for payment and shall notify persons  
14 in such priority list monthly of the availability of funds  
15 and when payment shall be made. Payment shall be made to  
16 the owner or operator at such time as sufficient funds  
17 become available for the costs associated with site  
18 investigation and corrective action and costs expended for  
19 activities performed where no proposal is required, if  
20 applicable. Such priority list shall be available to any  
21 owner or operator upon request. Priority for payment shall  
22 be determined by the date the Agency receives a complete  
23 request for partial or final payment. Upon receipt of  
24 notification from the Agency that the requirements of this  
25 Title have been met, the Comptroller shall make payment to  
26 the owner or operator of the amount approved by the Agency,

1 if sufficient money exists in the Fund. If there is  
2 insufficient money in the Fund, then payment shall not be  
3 made. If the owner or operator appeals a final Agency  
4 payment determination and it is determined that the owner  
5 or operator is eligible for payment or additional payment,  
6 the priority date for the payment or additional payment  
7 shall be the same as the priority date assigned to the  
8 original request for partial or final payment.

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

15 (5) In the event that costs are or will be incurred in  
16 addition to those approved by the Agency, or after payment,  
17 the owner or operator may submit successive plans  
18 containing amended budgets. The requirements of Section  
19 57.7 shall apply to any amended plans.

20 (6) For purposes of this Section, a complete  
21 application shall consist of:

22 (A) A certification from a Licensed Professional  
23 Engineer or Licensed Professional Geologist as  
24 required under this Title and acknowledged by the owner  
25 or operator.

26 (B) A statement of the amounts approved in the

1 budget and the amounts actually sought for payment  
2 along with a certified statement by the owner or  
3 operator that the amounts so sought were expended in  
4 conformance with the approved budget.

5 (C) A copy of the Office of the State Fire  
6 Marshal's eligibility and deductibility determination.

7 (D) Proof that approval of the payment requested  
8 will not result in the limitations set forth in  
9 subsection (g) of this Section being exceeded.

10 (E) A federal taxpayer identification number and  
11 legal status disclosure certification on a form  
12 prescribed and provided by the Agency.

13 (F) If the Agency determined under subsection  
14 (c) (3) of Section 57.7 of this Act that corrective  
15 action must include a project labor agreement, a  
16 certification from the owner or operator that the  
17 corrective action was (i) performed under a project  
18 labor agreement that meets the requirements of Section  
19 25 of the Project Labor Agreements Act and (ii)  
20 implemented in a manner consistent with the terms and  
21 conditions of the Project Labor Agreements Act and in  
22 full compliance with all statutes, regulations, and  
23 Executive Orders as required under that Act and the  
24 Prevailing Wage Act.

25 (b) Commencement of site investigation or corrective  
26 action upon availability of funds. The Board shall adopt

1 regulations setting forth procedures based on risk to human  
2 health or the environment under which the owner or operator who  
3 has received approval for any budget plan submitted pursuant to  
4 Section 57.7, and who is eligible for payment from the  
5 Underground Storage Tank Fund pursuant to an Office of the  
6 State Fire Marshal eligibility and deductibility  
7 determination, may elect to defer site investigation or  
8 corrective action activities until funds are available in an  
9 amount equal to the amount approved in the budget. The  
10 regulations shall establish criteria based on risk to human  
11 health or the environment to be used for determining on a  
12 site-by-site basis whether deferral is appropriate. The  
13 regulations also shall establish the minimum investigatory  
14 requirements for determining whether the risk based criteria  
15 are present at a site considering deferral and procedures for  
16 the notification of owners or operators of insufficient funds,  
17 Agency review of request for deferral, notification of Agency  
18 final decisions, returning deferred sites to active status, and  
19 earmarking of funds for payment.

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

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

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

8           (d) Notwithstanding any other provision of this Title, the  
 9           Agency shall not approve payment to an owner or operator from  
 10          the Fund for costs of corrective action or indemnification  
 11          incurred during a calendar year in excess of the following  
 12          aggregate amounts based on the number of petroleum underground  
 13          storage tanks owned or operated by such owner or operator in  
 14          Illinois.

Amount	Number of Tanks
\$2,000,000 .....	fewer than 101
\$3,000,000 .....	101 or more

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

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

25          (3) For purposes of this subsection, owner or operator  
 26          includes (i) any subsidiary, parent, or joint stock company

1 of the owner or operator and (ii) any company owned by any  
2 parent, subsidiary, or joint stock company of the owner or  
3 operator.

4 (e) Costs of corrective action or indemnification incurred  
5 by an owner or operator which have been paid to an owner or  
6 operator under a policy of insurance, another written  
7 agreement, or a court order are not eligible for payment under  
8 this Section. An owner or operator who receives payment under a  
9 policy of insurance, another written agreement, or a court  
10 order shall reimburse the State to the extent such payment  
11 covers costs for which payment was received from the Fund. Any  
12 monies received by the State under this subsection (e) shall be  
13 deposited into the Fund.

14 (f) (Blank.)

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

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

20 (2) for costs of indemnification of such owner or  
21 operator in an amount in excess of \$1,500,000 per  
22 occurrence.

23 (h) Payment of any amount from the Fund for corrective  
24 action or indemnification shall be subject to the State  
25 acquiring by subrogation the rights of any owner, operator, or  
26 other person to recover the costs of corrective action or

1 indemnification for which the Fund has compensated such owner,  
2 operator, or person from the person responsible or liable for  
3 the release.

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

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

11 (k) The Agency shall not pay costs of corrective action or  
12 indemnification incurred before providing notification of the  
13 release of petroleum in accordance with the provisions of this  
14 Title.

15 (l) Corrective action does not include legal defense costs.  
16 Legal defense costs include legal costs for seeking payment  
17 under this Title unless the owner or operator prevails before  
18 the Board in which case the Board may authorize payment of  
19 legal fees.

20 (m) The Agency may apportion payment of costs for plans  
21 submitted under Section 57.7 if:

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

26 (2) the owner or operator failed to justify all costs



1           attributable to each underground storage tank at the site.

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

9           (Source: P.A. 98-109, eff. 7-25-13.)

10           (415 ILCS 5/57.9)

11           Sec. 57.9. Underground Storage Tank Fund; eligibility and  
12 deductibility.

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

19                   (1) Neither the owner nor the operator is the United  
20 States Government.

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

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

25                           (A) "Fuel", as defined in Section 1.19 of the Motor

1 Fuel Tax Law.

2 (B) Aviation fuel.

3 (C) Heating oil.

4 (D) Kerosene.

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

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

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

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

21 (7) The costs were associated with "corrective action"  
22 of this Act.

23 If the underground storage tank which experienced a  
24 release of a substance listed in this Section was installed  
25 after July 28, 1989, the owner or operator is eligible to  
26 access the Underground Storage Tank Fund if it is

1           demonstrated to the Office of the State Fire Marshal the  
2           tank was installed and operated in accordance with Office  
3           of the State Fire Marshal regulatory requirements. Office  
4           of the State Fire Marshal certification is prima facie  
5           evidence the tank was installed pursuant to the Office of  
6           the State Fire Marshal regulatory requirements.

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

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

22                 (2) A deductible of \$50,000 shall apply if any of the  
23                 underground storage tanks were registered prior to July 28,  
24                 1989, and the State received notice of the confirmed  
25                 release prior to July 28, 1989.

26                 (3) A deductible of \$15,000 shall apply when one or

1 more, but not all, of the underground storage tanks were  
2 registered prior to July 28, 1989, and the State received  
3 notice of the confirmed release on or after July 28, 1989.

4 For releases reported on or after the effective date of  
5 this amendatory Act of the 96th General Assembly until the  
6 effective date of this amendatory Act of the 101st General  
7 Assembly, an owner or operator may access the Underground  
8 Storage Tank Fund for costs associated with an Agency approved  
9 plan, and the Agency shall approve the payment of costs  
10 associated with corrective action after the application of a  
11 \$5,000 deductible.

12 For a release reported on or after the effective date of  
13 this amendatory Act of the 101st General Assembly, an owner or  
14 operator may access the Underground Storage Tank Fund for costs  
15 associated with an Agency approved plan, and the Agency shall  
16 approve the payment of costs associated with corrective action  
17 without the application of a deductible, except a \$5,000  
18 deductible shall apply to an owner or operator of an  
19 underground storage tank that is not registered under the  
20 Gasoline Storage Act.

21 A deductible shall apply annually for each site at which  
22 costs were incurred under a claim submitted pursuant to this  
23 Title, except that if corrective action in response to an  
24 occurrence takes place over a period of more than one year, in  
25 subsequent years, no deductible shall apply for costs incurred  
26 in response to such occurrence.

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

3 (1) When an owner or operator reports a confirmed  
4 release of a regulated substance, the Office of the State  
5 Fire Marshal shall provide the owner or operator with an  
6 "Eligibility and Deductibility Determination" form. The  
7 form shall either be provided on-site or within 15 days of  
8 the Office of the State Fire Marshal receipt of notice  
9 indicating a confirmed release. The form shall request  
10 sufficient information to enable the Office of the State  
11 Fire Marshal to make a final determination as to owner or  
12 operator eligibility to access the Underground Storage  
13 Tank Fund pursuant to this Title and the appropriate  
14 deductible. The form shall be promulgated as a rule or  
15 regulation pursuant to the Illinois Administrative  
16 Procedure Act by the Office of the State Fire Marshal.  
17 Until such form is promulgated, the Office of State Fire  
18 Marshal shall use a form which generally conforms with this  
19 Act.

20 (2) Within 60 days of receipt of the "Eligibility and  
21 Deductibility Determination" form, the Office of the State  
22 Fire Marshal shall issue one letter enunciating the final  
23 eligibility and deductibility determination, and such  
24 determination or failure to act within the time prescribed  
25 shall be a final decision appealable to the Illinois  
26 Pollution Control Board.

1 (Source: P.A. 96-908, eff. 6-8-10.)

2 Section 99. Effective date. This Act takes effect January  
3 1, 2021.