



Rep. John E. Bradley

Filed: 3/19/2013

09800HB1421ham001

LRB098 08030 JDS 42332 a

1 AMENDMENT TO HOUSE BILL 1421

2 AMENDMENT NO. _____. Amend House Bill 1421 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Sections 57.2, 57.7, and 57.8 and by adding Section
6 57.11A as follows:

7 (415 ILCS 5/57.2)

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

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

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

16 "Release" means any spilling, leaking, emitting,

1 discharging, escaping, leaching or disposing of petroleum from
2 an underground storage tank into groundwater, surface water or
3 subsurface soils.

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

6 "Fund" means the Underground Storage Tank Fund.

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

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

21 "Corrective action" means activities associated with
22 compliance with the provisions of Sections 57.6 and 57.7 of
23 this Title.

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

1 When used in connection with, or when otherwise relating
2 to, underground storage tanks, the terms "facility", "owner",
3 "operator", "underground storage tank", "(UST)", "petroleum"
4 and "regulated substance" shall have the meanings ascribed to
5 them in Subtitle I of the Hazardous and Solid Waste Amendments
6 of 1984 (P.L. 98-616), of the Resource Conservation and
7 Recovery Act of 1976 (P.L. 94-580); provided however that the
8 term "underground storage tank" shall also mean an underground
9 storage tank used exclusively to store heating oil for
10 consumptive use on the premises where stored and which serves
11 other than a farm or residential unit; provided further however
12 that the term "owner" shall also mean any person who has
13 submitted to the Agency a written election to proceed under
14 this Title and has acquired an ownership interest in a site on
15 which one or more registered tanks have been removed, but on
16 which corrective action has not yet resulted in the issuance of
17 a "no further remediation letter" by the Agency pursuant to
18 this Title.

19 "Labor organization" means any organization that qualifies
20 as a labor organization under Section 2 of the National Labor
21 Relations Act (29 U.S.C. 152).

22 "Licensed Professional Engineer" means a person,
23 corporation, or partnership licensed under the laws of the
24 State of Illinois to practice professional engineering.

25 "Licensed Professional Geologist" means a person licensed
26 under the laws of the State of Illinois to practice as a

1 professional geologist.

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

5 "Site investigation" means activities associated with
6 compliance with the provisions of subsection (a) of Section
7 57.7.

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

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

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

23 (Source: P.A. 94-274, eff. 1-1-06.)

24 (415 ILCS 5/57.7)

25 Sec. 57.7. Leaking underground storage tanks; site

1 investigation and corrective action.

2 (a) Site investigation.

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

11 (2) Any owner or operator intending to seek payment
12 from the Fund shall submit to the Agency for approval a
13 site investigation budget that includes, but is not limited
14 to, an accounting of all costs associated with the
15 implementation and completion of the site investigation
16 plan.

17 (3) Remediation objectives for the applicable
18 indicator contaminants shall be determined using the
19 tiered approach to corrective action objectives rules
20 adopted by the Board pursuant to this Title and Title XVII
21 of this Act. For the purposes of this Title, "Contaminant
22 of Concern" or "Regulated Substance of Concern" in the
23 rules means the applicable indicator contaminants set
24 forth in subsection (d) of this Section and the rules
25 adopted thereunder.

26 (4) Upon the Agency's approval of a site investigation

1 plan, or as otherwise directed by the Agency, the owner or
2 operator shall conduct a site investigation in accordance
3 with the plan.

4 (5) Within 30 days after completing the site
5 investigation, the owner or operator shall submit to the
6 Agency for approval a site investigation completion
7 report. At a minimum the report shall include all of the
8 following:

9 (A) Executive summary.

10 (B) Site history.

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

12 (D) Documentation of all field activities,
13 including quality assurance.

14 (E) Documentation regarding the development of
15 proposed remediation objectives.

16 (F) Interpretation of results.

17 (G) Conclusions.

18 (b) Corrective action.

19 (1) If the site investigation confirms none of the
20 applicable indicator contaminants exceed the proposed
21 remediation objectives, within 30 days after completing
22 the site investigation the owner or operator shall submit
23 to the Agency for approval a corrective action completion
24 report in accordance with this Section.

25 (2) If any of the applicable indicator contaminants
26 exceed the remediation objectives approved for the site,

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

11 (A) Executive summary.

12 (B) Statement of remediation objectives.

13 (C) Remedial technologies selected.

14 (D) Confirmation sampling plan.

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

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

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

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

1 implementation and completion of the corrective action
2 plan.

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

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

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

1 objectives are expected to be achieved.

2 (7) If the Agency determines any approved corrective
3 action plan will not achieve applicable remediation
4 objectives within a reasonable time, based upon the method
5 of remediation and site specific circumstances, the Agency
6 may require the owner or operator to submit to the Agency
7 for approval a revised corrective action plan. If the owner
8 or operator intends to seek payment from the Fund, the
9 owner or operator must also submit a revised budget.

10 (c) Agency review and approval.

11 (1) Agency approval of any plan and associated budget,
12 as described in this subsection (c), shall be considered
13 final approval for purposes of seeking and obtaining
14 payment from the Underground Storage Tank Fund if the costs
15 associated with the completion of any such plan are less
16 than or equal to the amounts approved in such budget.

17 (2) In the event the Agency fails to approve,
18 disapprove, or modify any plan or report submitted pursuant
19 to this Title in writing within 120 days of the receipt by
20 the Agency, the plan or report shall be considered to be
21 rejected by operation of law for purposes of this Title and
22 rejected for purposes of payment from the Underground
23 Storage Tank Fund.

24 (A) For purposes of those plans as identified in
25 paragraph (5) of this subsection (c), the Agency's
26 review may be an audit procedure. Such review or audit

1 shall be consistent with the procedure for such review
2 or audit as promulgated by the Board under Section
3 57.14. The Agency has the authority to establish an
4 auditing program to verify compliance of such plans
5 with the provisions of this Title.

6 (B) For purposes of corrective action plans
7 submitted pursuant to subsection (b) of this Section
8 for which payment from the Fund is not being sought,
9 the Agency need not take action on such plan until 120
10 days after it receives the corrective action
11 completion report required under subsection (b) of
12 this Section. In the event the Agency approved the
13 plan, it shall proceed under the provisions of this
14 subsection (c).

15 (3) In approving any plan submitted pursuant to
16 subsection (a) or (b) of this Section, the Agency shall
17 determine, by a procedure promulgated by the Board under
18 Section 57.14, that the costs associated with the plan are
19 reasonable, will be incurred in the performance of site
20 investigation or corrective action, and will not be used
21 for site investigation or corrective action activities in
22 excess of those required to meet the minimum requirements
23 of this Title.

24 (A) For purposes of payment from the Fund,
25 corrective action activities required to meet the
26 minimum requirements of this Title shall include, but

1 not be limited to, the following use of the Board's
2 Tiered Approach to Corrective Action Objectives rules
3 adopted under Title XVII of this Act:

4 (i) For the site where the release occurred,
5 the use of Tier 2 remediation objectives that are
6 no more stringent than Tier 1 remediation
7 objectives.

8 (ii) The use of industrial/commercial property
9 remediation objectives, unless the owner or
10 operator demonstrates that the property being
11 remediated is residential property or being
12 developed into residential property.

13 (iii) The use of groundwater ordinances as
14 institutional controls in accordance with Board
15 rules.

16 (iv) The use of on-site groundwater use
17 restrictions as institutional controls in
18 accordance with Board rules.

19 (B) Any bidding process adopted under Board rules
20 to determine the reasonableness of costs of corrective
21 action must provide for a publicly-noticed,
22 competitive, and sealed bidding process that includes,
23 at a minimum, the following:

24 (i) The owner or operator must issue
25 invitations for bids that include, at a minimum, a
26 description of the work being bid and applicable

1 contractual terms and conditions. The invitation
2 for bids must require the bidder to supply (and all
3 accepted bids must also supply) all of the
4 following information: documents evidencing the
5 bidder's compliance with all applicable laws and
6 ordinances prerequisite to doing business in this
7 State; the bidder's federal employer tax
8 identification number or, if the bidder is doing
9 business as an individual, his or her social
10 security number; a statement of the bidder's
11 compliance with federal Equal Employment
12 Opportunity laws; a disclosure, by the bidder, of
13 the name and address of each subcontractor with
14 whom the contractor has contracted, or intends to
15 contract, to complete any portion of the work bid
16 upon; certificates of insurance showing the
17 bidder's general liability, workers' compensation,
18 and automobile liability coverage; a statement of
19 the bidder's compliance with all provisions of the
20 Illinois Prevailing Wage Act; evidence of the
21 bidder's participation in apprenticeship and
22 training programs approved and registered with the
23 U.S. Department of Labor Office of Apprenticeship
24 or a successor organization; documents evidencing
25 the bidder's safety and health activities and
26 programs; a statement by the bidder that

1 individuals who will perform the bid upon work are
2 properly classified as either an employee or
3 independent contractor under all applicable State
4 and federal laws and local ordinances; a statement
5 that all employees are covered under a current
6 workers' compensation insurance policy and
7 properly classified under the policy; a statement
8 by the bidder listing all employees who will
9 perform the bid upon work and evidence that all
10 listed employees are covered by a health and
11 welfare plan and a retirement plan; and documents
12 evidencing any professional or trade license
13 required by law or local ordinance for any trade or
14 specialty group employed or contracted with by the
15 bidder to perform the bid upon work. The criteria
16 on which the bids will be evaluated must be set
17 forth in the invitation for bids. The criteria may
18 include, but shall not be limited to, criteria for
19 determining acceptability, such as inspection,
20 testing, quality, workmanship, delivery, and
21 suitability for a particular purpose. Criteria
22 that will affect the bid price and be considered in
23 the evaluation of a bid, such as discounts, shall
24 be objectively measurable.

25 (ii) At least 14 days prior to the date set in
26 the invitation for the opening of bids, public

1 notice of the invitation for bids must be published
2 in a local paper of general circulation for the
3 area in which the site is located.

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

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

26 (v) Correction or withdrawal of inadvertently

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

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

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

1 All bidding documentation must be made available
2 to the Agency for inspection and copying during
3 normal business hours.

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

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

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

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

26 (C) an explanation of the specific type of

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

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

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

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

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

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

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

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

24 (d) For purposes of this Title, the term "indicator
25 contaminant" shall mean, unless and until the Board promulgates
26 regulations to the contrary, the following: (i) if an

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

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

23 (2) Upon receipt of a plan submitted after activities
24 have commenced at a site, the Agency shall proceed to
25 review in the same manner as required under this Title. In
26 the event the Agency disapproves all or part of the costs,

1 the owner or operator may appeal such decision to the
2 Board. The owner or operator shall not be eligible to be
3 reimbursed for such disapproved costs unless and until the
4 Board determines that such costs were eligible for payment.

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

9 (Source: P.A. 95-331, eff. 8-21-07; 96-908, eff. 6-8-10.)

10 (415 ILCS 5/57.8)

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

23 (a) Payment after completion of corrective action
24 measures. The owner or operator may submit an application for
25 payment for activities performed at a site after completion of

1 the requirements of Sections 57.6 and 57.7, or after completion
2 of any other required activities at the underground storage
3 tank site.

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

20 (2) If sufficient funds are available in the
21 Underground Storage Tank Fund, the Agency shall, within 60
22 days, forward to the Office of the State Comptroller a
23 voucher in the amount approved under the payment
24 application.

25 (3) In the case of insufficient funds, the Agency shall
26 form a priority list for payment and shall notify persons

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

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

1 shall apply per underground storage tank site.

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

7 (6) For purposes of this Section, a complete
8 application shall consist of:

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

13 (B) A statement of the amounts approved in the
14 budget and the amounts actually sought for payment
15 along with a certified statement by the owner or
16 operator that the amounts so sought were expended in
17 conformance with the approved budget.

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

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

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

26 (F) A fully executed project labor agreement that

1 satisfies the requirements of Section 57.11A of this
2 Act for actions taken in response to releases reported
3 on or after the effective date of this amendatory Act
4 of the 98th General Assembly.

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

26 (c) When the owner or operator requests indemnification for

1 payment of costs incurred as a result of a release of petroleum
 2 from an underground storage tank, if the owner or operator has
 3 satisfied the requirements of subsection (a) of this Section,
 4 the Agency shall forward a copy of the request to the Attorney
 5 General. The Attorney General shall review and approve the
 6 request for indemnification if:

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

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

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

21 Amount	Number of Tanks
22 \$2,000,000	fewer than 101
23 \$3,000,000	101 or more

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

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

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

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

20 (f) (Blank.)

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

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

26 (2) for costs of indemnification of such owner or

1 operator in an amount in excess of \$1,500,000 per
2 occurrence.

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

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

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

17 (k) The Agency shall not pay costs of corrective action or
18 indemnification incurred before providing notification of the
19 release of petroleum in accordance with the provisions of this
20 Title.

21 (l) Corrective action does not include legal defense costs.
22 Legal defense costs include legal costs for seeking payment
23 under this Title unless the owner or operator prevails before
24 the Board in which case the Board may authorize payment of
25 legal fees.

26 (m) The Agency may apportion payment of costs for plans

1 submitted under Section 57.7 if:

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

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

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

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

16 (415 ILCS 5/57.11A new)

17 Sec. 57.11A. Project labor agreements. A project labor
18 agreement required under this Title shall:

19 (1) set forth established standard hourly wages for
20 each class of labor organization employee;

21 (2) set forth area standard benefits and other
22 compensation for each class of labor organization
23 employee;

24 (3) contain provisions guaranteeing that there will
25 not be a strike, job interruption, or delay by covered

1 employees;

2 (4) set forth effective, immediate, and mutually
3 binding procedures for resolving jurisdictional labor
4 disputes and grievances arising before the completion of
5 work;

6 (5) ensure a reliable source of skilled and experienced
7 labor;

8 (6) provide for improved employment opportunities for
9 minorities and women in the construction industry to the
10 extent permitted by State and federal law;

11 (7) permit the selection of the most qualified lowest
12 responsible bidder, without regard to union or non-union
13 status at other construction sites;

14 (8) bind all contractors and subcontractors on the
15 project through the inclusion of appropriate bid
16 specifications in all relevant bid documents;

17 (9) include the names, addresses, and occupations of
18 the owner of the site and the individuals representing the
19 labor organization employees participating in the project
20 labor agreement; and

21 (10) include other terms as the parties deem
22 appropriate."