

SB0119



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0119

Introduced 1/28/2015, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

415 ILCS 5/57.10

Amends the Environmental Protection Act. Provides that the Illinois Environmental Protection Agency shall issue to the owner or operator of an underground storage tank a no further remediation letter if (i) the owner or operator submits to the Agency a certification from a licensed professional engineer that the work described in the approved corrective action plan has been completed successfully to a boring level acceptable to the Agency, (ii) the groundwater at the site will not be used for human consumption, (iii) the site is zoned for non-residential use, and (iv) the site is located in a municipality with a population of not more than 50,000.

LRB099 03695 MGM 23706 b

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 Section 57.10 as follows:

6 (415 ILCS 5/57.10)

7 Sec. 57.10. Professional Engineer or Professional
8 Geologist certification; presumptions against liability.

9 (a) Within 120 days of the Agency's receipt of a corrective
10 action completion report, the Agency shall issue to the owner
11 or operator a "no further remediation letter" unless the Agency
12 has requested a modification, issued a rejection under
13 subsection (d) of this Section, or the report has been rejected
14 by operation of law.

15 (a-5) The Agency shall issue to the owner or operator a no
16 further remediation letter if (i) the owner or operator submits
17 to the Agency a certification from a licensed professional
18 engineer that the work described in the approved corrective
19 action plan has been completed successfully to a boring level
20 acceptable to the Agency, (ii) the groundwater at the site will
21 not be used for human consumption, (iii) the site is zoned for
22 non-residential use, and (iv) the site is located in a
23 municipality with a population of not more than 50,000.

1 (b) By certifying such a statement, a Licensed Professional
2 Engineer or Licensed Professional Geologist shall in no way be
3 liable thereon, unless the engineer or geologist gave such
4 certification despite his or her actual knowledge that the
5 performed measures were not in compliance with applicable
6 statutory or regulatory requirements or any plan submitted to
7 the Agency.

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

11 (1) all statutory and regulatory corrective action
12 requirements applicable to the occurrence have been
13 complied with;

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

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

19 This subsection (c) does not apply to off-site contamination
20 related to the occurrence that has not been remediated due to
21 denial of access to the off-site property.

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

24 (1) The owner or operator to whom the letter was
25 issued.

26 (2) Any parent corporation or subsidiary of such owner

1 or operator.

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

6 (4) Any holder of a beneficial interest of a land trust
7 or inter vivos trust whether revocable or irrevocable.

8 (5) Any mortgagee or trustee of a deed of trust of such
9 owner or operator.

10 (6) Any successor-in-interest of such owner or
11 operator.

12 (7) Any transferee of such owner or operator whether
13 the transfer was by sale, bankruptcy proceeding,
14 partition, dissolution of marriage, settlement or
15 adjudication of any civil action, charitable gift, or
16 bequest.

17 (8) Any heir or devisee of such owner or operator.

18 (9) An owner of a parcel of real property to the extent
19 that the no further remediation letter under subsection (c)
20 of this Section applies to the occurrence on that parcel.

21 (e) If the Agency notifies the owner or operator that the
22 "no further remediation" letter has been rejected, the grounds
23 for such rejection shall be described in the notice. Such a
24 decision shall be a final determination which may be appealed
25 by the owner or operator.

26 (f) The Board shall adopt rules setting forth the criteria

1 under which the Agency may require an owner or operator to
2 conduct further investigation or remediation related to a
3 release for which a no further remediation letter has been
4 issued.

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

12 (Source: P.A. 94-276, eff. 1-1-06.)