



Sen. Deanna Demuzio

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09400SB1035sam001

LRB094 04707 RSP 46562 a

1 AMENDMENT TO SENATE BILL 1035

2 AMENDMENT NO. _____. Amend Senate Bill 1035 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, 57.8, and 57.15 as follows:

6 (415 ILCS 5/57.2)

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

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

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

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

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

21 "Fund" means the Underground Storage Tank Fund.

22 "Heating Oil" means petroleum that is No. 1, No. 2, No. 4 -
23 light, No. 4 - heavy, No. 5 - light, No. 5 - heavy or No. 6
24 technical grades of fuel oil; and other residual fuel oils

1 including Navy Special Fuel Oil and Bunker C.

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

12 "Corrective action" means activities associated with
13 compliance with the provisions of Sections 57.6 and 57.7 of
14 this Title.

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

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

29 "Licensed Professional Engineer" means a person,
30 corporation, or partnership licensed under the laws of the
31 State of Illinois to practice professional engineering.

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

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

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

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, or
11 contaminated, but has been evacuated, withdrawn from use, or
12 rendered inaccessible because of a release of petroleum from an
13 underground storage tank.

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

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

22 "Scope of work" means a comprehensive, all-inclusive
23 listing of services and activities included in a specific task.

24 (Source: P.A. 92-554, eff. 6-24-02; 92-735, eff. 7-25-02;
25 revised 9-9-02.)

26 (415 ILCS 5/57.7)

27 Sec. 57.7. Leaking underground storage tanks; site
28 investigation and corrective action.

29 (a) Site investigation.

30 (1) For any site investigation activities required by
31 statute or rule, the owner or operator shall submit to the
32 Agency for approval a site investigation plan designed to
33 determine the nature, concentration, direction of

1 movement, rate of movement, and extent of the contamination
2 as well as the significant physical features of the site
3 and surrounding area that may affect contaminant transport
4 and risk to human health and safety and the environment.

5 (2) Any owner or operator intending to seek payment
6 from the Fund shall submit to the Agency for approval a
7 site investigation budget that includes, but is not limited
8 to, an accounting of all costs associated with the
9 implementation and completion of the site investigation
10 plan.

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

20 (4) Upon the Agency's approval of a site investigation
21 plan, or as otherwise directed by the Agency, the owner or
22 operator shall conduct a site investigation in accordance
23 with the plan.

24 (5) Within 60 ~~30~~ days after completing the site
25 investigation, the owner or operator shall submit to the
26 Agency for approval a site investigation completion
27 report. At a minimum the report shall include all of the
28 following:

29 (A) Executive summary.

30 (B) Site history.

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

32 (D) Documentation of all field activities,
33 including quality assurance.

34 (E) Documentation regarding the development of

1 proposed remediation objectives.

2 (F) Interpretation of results.

3 (G) Conclusions.

4 (b) Corrective action.

5 (1) If the site investigation confirms none of the
6 applicable indicator contaminants exceed the proposed
7 remediation objectives, within 60 ~~30~~ days after completing
8 the site investigation the owner or operator shall submit
9 to the Agency for approval a corrective action completion
10 report in accordance with this Section.

11 (2) If any of the applicable indicator contaminants
12 exceed the remediation objectives approved for the site,
13 within 60 ~~30~~ days after the Agency approves the site
14 investigation completion report the owner or operator
15 shall submit to the Agency for approval a corrective action
16 plan designed to mitigate any threat to human health, human
17 safety, or the environment resulting from the underground
18 storage tank release. The plan shall describe the selected
19 remedy and evaluate its ability and effectiveness to
20 achieve the remediation objectives approved for the site.
21 At a minimum, the report shall include all of the
22 following:

23 (A) Executive summary.

24 (B) Statement of remediation objectives.

25 (C) Remedial technologies selected.

26 (D) Confirmation sampling plan.

27 (E) Current and projected future use of the
28 property.

29 (F) Applicable preventive, engineering, and
30 institutional controls including long-term
31 reliability, operating, and maintenance plans, and
32 monitoring procedures.

33 (G) A schedule for implementation and completion
34 of the plan.

1 (3) Any owner or operator intending to seek payment
2 from the Fund shall submit to the Agency for approval a
3 corrective action budget that includes, but is not limited
4 to, an accounting of all costs associated with the
5 implementation and completion of the corrective action
6 plan.

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

11 (5) Within 60 ~~30~~ days after the completion of a
12 corrective action plan that achieves applicable
13 remediation objectives the owner or operator shall submit
14 to the Agency for approval a corrective action completion
15 report. The report shall demonstrate whether corrective
16 action was completed in accordance with the approved
17 corrective action plan and whether the remediation
18 objectives approved for the site, as well as any other
19 requirements of the plan, have been achieved.

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

32 (7) If the Agency determines any approved corrective
33 action plan will not achieve applicable remediation
34 objectives within a reasonable time, based upon the method

1 of remediation and site specific circumstances, the Agency
2 may require the owner or operator to submit to the Agency
3 for approval a revised corrective action plan. If the owner
4 or operator intends to seek payment from the Fund, the
5 owner or operator must also submit a revised budget.

6 ~~or Licensed Professional Geologist or Licensed Professional~~
7 ~~Geologist or Licensed Professional Geologist or Licensed~~
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9 ~~Licensed Professional Geologist or Licensed Professional~~
10 ~~Geologist or Licensed Professional Geologist or Licensed~~
11 ~~Professional Geologist or Licensed Professional Geologist~~

12 (c) Agency review and approval.

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

19 (2) In the event the Agency fails to approve,
20 disapprove, or modify any plan or report submitted pursuant
21 to this Title in writing within 90 ~~120~~ days of the receipt
22 by the Agency, the plan or report shall be considered to be
23 rejected by operation of law for purposes of this Title and
24 rejected for purposes of payment from the Underground
25 Storage Tank Fund.

26 (A) For purposes of those plans as identified in
27 paragraph (5) of this subsection (c), the Agency's
28 review may be an audit procedure. Such review or audit
29 shall be consistent with the procedure for such review
30 or audit as promulgated by the Board under Section
31 57.14. The Agency has the authority to establish an
32 auditing program to verify compliance of such plans
33 with the provisions of this Title.

34 (B) For purposes of corrective action plans

1 submitted pursuant to subsection (b) of this Section
2 for which payment from the Fund is not being sought,
3 the Agency need not take action on such plan until 90
4 ~~120~~ days after it receives the corrective action
5 completion report required under subsection (b) of
6 this Section. In the event the Agency approved the
7 plan, it shall proceed under the provisions of this
8 subsection (c).

9 (3) In approving any plan submitted pursuant to
10 subsection (a) or (b) of this Section, the Agency shall
11 determine, by a procedure promulgated by the Board under
12 Section 57.14, that the costs associated with the plan are
13 reasonable, will be incurred in the performance of site
14 investigation or corrective action, and will not be used
15 for site investigation or corrective action activities in
16 excess of those required to meet the minimum requirements
17 of this Title. The Agency must adhere to the following
18 items in making a reasonableness determination as to the
19 costs of a plan:

20 (A) The Agency may set rates for corrective
21 activities typically requested for reimbursement. In
22 setting these rates the Agency must use a
23 scientifically defensible method that includes a
24 defined scope of work for each activity. The method and
25 list of rates to be determined must be reviewed and
26 approved by the Board. The Agency may also use rates
27 obtained through a current edition, published manual
28 produced by another State agency.

29 (B) Rates must be adjusted annually for inflation,
30 at a minimum. Complete and accurate geographic
31 distances must be considered as well. Professional
32 oversight shall be allowed for all hours in which
33 technically required field activities are occurring.

34 (C) The rates that are set by paragraph (A) may be

1 exceeded in the following instances:

2 (i) The contractor receives 3 bids in excess of
3 the rate that has been set; provided that the bids
4 must be obtained from subcontractors capable of
5 performing the work and must be obtained in the
6 units for which the rate is set.

7 (ii) The contractor uses rates from a
8 qualified reference. A list of qualified
9 references must be contained in rules adopted by
10 the Board.

11 (iii) The contractor provides justification to
12 the satisfaction of the Agency based on
13 site-specific factors for unusual or extraordinary
14 circumstances.

15 (iv) The activities that are necessary to meet
16 the minimum requirements of this Act exceed the
17 scope of the work defined for a particular rate.

18 (D) If a statistically significant percentage of
19 the number of submittals in the period of one year for
20 a particular rate that has been set are exceeded under
21 (C) (i) and (C) (ii) of this part, the Agency must review
22 the rate and determine if an adjustment needs to be
23 made.

24 (E) Remediation to any remediation objective
25 determined using the tiered approach to corrective
26 action objectives rules adopted by the Board pursuant
27 to this Title and Title XVII of this Act is a
28 reasonable cost.

29 (F) Fees assessed by a State agency that are
30 necessary to meet technical requirements are
31 reasonable costs.

32 (4) For any plan or report received after June 24,
33 ~~September 13,~~ 2002, any action by the Agency to disapprove
34 or modify a plan submitted pursuant to this Title shall be

1 provided to the owner or operator in writing within 90 ~~120~~
2 days of the receipt by the Agency or, in the case of a site
3 investigation plan or corrective action plan for which
4 payment is not being sought, within 90 ~~120~~ days of receipt
5 of the site investigation completion report or corrective
6 action completion report, respectively, and shall be
7 accompanied by:

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

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

13 (C) an explanation of the specific type of
14 information, if any, which the Agency deems the
15 applicant did not provide the Agency; and

16 (D) a statement of specific reasons why the Act and
17 the regulations might not be met if the plan were
18 approved.

19 Any action by the Agency to disapprove or modify a plan
20 or report is a draft denial, to which the owner or operator
21 has 30 days to respond. The owner or operator may respond
22 by either (i) appealing to the Agency to reverse its
23 disapproval or modification order or (ii) electing to
24 incorporate the Agency's modifications. If the owner or
25 operator appeals to the Agency, the Agency has 30 days from
26 the receipt of the owner's or operator's written
27 notification of appeal in which to respond. The Agency's
28 response to an appeal or failure to respond within the 30
29 days is a final action of the Agency and is subject to
30 appeal to the Board in accordance with the procedures of
31 Section 40 of this Act. The ~~or the~~ rejection of any plan or
32 report by operation of law shall be subject to appeal to
33 the Board in accordance with the procedures of Section 40.
34 If the owner or operator elects to incorporate

1 modifications required by the Agency rather than appeal, an
2 amended plan shall be submitted to the Agency within 35
3 days of receipt of the Agency's written notification.

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

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

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

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

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

14 (6) The Agency shall develop and maintain review
15 guidelines for all plans, reports, and budgets submitted
16 pursuant to this Title. These review guidelines shall be
17 published to provide notice to owners and operators as to
18 the specific information the Agency requires for each plan,
19 report, and budget. The review guidelines shall be
20 uniformly applied to all documents submitted to the Agency
21 under this Title.

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

1 standards or objectives as applicable.

2 (e) (1) Notwithstanding the provisions of this Section, an
3 owner or operator may proceed to conduct site investigation
4 or corrective action prior to the submittal or approval of
5 an otherwise required plan. If the owner or operator elects
6 to so proceed, an applicable plan shall be filed with the
7 Agency at any time. Such plan shall detail the steps taken
8 to determine the type of site investigation or corrective
9 action which was necessary at the site along with the site
10 investigation or corrective action taken or to be taken, in
11 addition to costs associated with activities to date and
12 anticipated costs.

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

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

25 (Source: P.A. 92-554, eff. 6-24-02; 92-574, eff. 6-26-02;
26 92-651, eff. 7-11-02; 92-735, eff. 7-25-02; revised 10-3-02.)

27 (415 ILCS 5/57.8)

28 Sec. 57.8. Underground Storage Tank Fund; payment; options
29 for State payment; deferred correction election to commence
30 corrective action upon availability of funds. If an owner or
31 operator is eligible to access the Underground Storage Tank
32 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 submit
2 a complete application for final or partial payment to the
3 Agency for activities taken in response to a confirmed release.
4 An owner or operator may submit a request for partial or final
5 payment regarding a site no more frequently than once every 90
6 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 of
10 the requirements of Sections 57.6 and 57.7, or after completion
11 of any other required activities at the underground storage
12 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 90 ~~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 auditing
21 for adherence to the corrective action measures in the
22 proposal. If the Agency fails to approve the payment
23 application within 90 ~~120~~ days, such application shall be
24 deemed approved by operation of law and the Agency shall
25 proceed to reimburse the owner or operator the amount
26 requested in the payment application. However, in no event
27 shall the Agency reimburse the owner or operator an amount
28 greater than the amount approved in the plan.

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

34 (3) In the case of insufficient funds, the Agency shall

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

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

29 (5) In the event that costs are or will be incurred in
30 addition to those approved by the Agency, or after payment,
31 the owner or operator may submit successive plans
32 containing amended budgets. The requirements of Section
33 57.7 shall apply to any amended plans.

34 (6) For purposes of this Section, a complete

1 application shall consist of:

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

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

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

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

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

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

1 are present at a site considering deferral and procedures for
 2 the notification of owners or operators of insufficient funds,
 3 Agency review of request for deferral, notification of Agency
 4 final decisions, returning deferred sites to active status, and
 5 earmarking of funds for payment.

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

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

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

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

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

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

33 (2) For purposes of this subsection, requests
 34 submitted by any of the agencies, departments, boards,

1 committees or commissions of the State of Illinois shall be
2 acted upon as claims from a single owner or operator.

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

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

18 (f) (Blank.)

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

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

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

27 (h) Payment of any amount from the Fund for corrective
28 action or indemnification shall be subject to the State
29 acquiring by subrogation the rights of any owner, operator, or
30 other person to recover the costs of corrective action or
31 indemnification for which the Fund has compensated such owner,
32 operator, or person from the person responsible or liable for
33 the release.

34 (i) If the Agency refuses to pay or authorizes only a

1 partial payment, the affected owner or operator may petition
2 the Board for a hearing in the manner provided for the review
3 of permit decisions in Section 40 of this Act.

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

7 (k) The Agency shall not pay costs of corrective action or
8 indemnification incurred before providing notification of the
9 release of petroleum in accordance with the provisions of this
10 Title.

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

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

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

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

24 (n) The Agency shall not pay costs associated with a
25 corrective action plan incurred after the Agency provides
26 notification to the owner or operator pursuant to item (7) of
27 subsection (b) of Section 57.7 that a revised corrective action
28 plan is required. Costs associated with any subsequently
29 approved corrective action plan shall be eligible for
30 reimbursement if they meet the requirements of this Title.

31 (o) The Agency shall, by January 1, 2006, develop or obtain
32 an electronic system for submittal and review of budgets and
33 reimbursement requests that are submitted pursuant to this
34 Title. For budgets and reimbursement requests submitted

1 electronically, the Agency review time is limited to 60 days.

2 (Source: P.A. 91-357, eff. 7-29-99; 92-554, eff. 6-24-02;
3 92-574, eff. 6-26-02; 92-735, eff. 7-25-02; revised 10-3-02.)

4 (415 ILCS 5/57.15)

5 Sec. 57.15. Authority to audit. The Agency has the
6 authority to audit all data, reports, plans, documents and
7 budgets submitted pursuant to this Title. If the Agency, in the
8 process of its audit, determines that additional information is
9 required to support the claims within the data, report, plan,
10 document, or budget, the Agency must request this information
11 in writing via certified mail and allow 30 days for a response.
12 If, following this request, it has been determined that ~~If~~ the
13 data, report, plan, document or budget audited by the Agency
14 pursuant to this Section fails to conform to all applicable
15 requirements of this Title, the Agency may take appropriate
16 actions in accordance with Section 57.17. A request completed
17 in accordance with this Section extends the Agency's applicable
18 review period by 30 days.

19 (Source: P.A. 88-496.)".