



Rep. Amy L. Grant

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10300HB1831ham001

LRB103 28077 LNS 58013 a

1 AMENDMENT TO HOUSE BILL 1831

2 AMENDMENT NO. _____. Amend House Bill 1831 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 57.7 as follows:

6 (415 ILCS 5/57.7)

7 Sec. 57.7. Leaking underground storage tanks; site
8 investigation and corrective action.

9 (a) Site investigation.

10 (1) For any site investigation activities required by
11 statute or rule, the owner or operator shall submit to the
12 Agency for approval a site investigation plan designed to
13 determine the nature, concentration, direction of
14 movement, rate of movement, and extent of the
15 contamination as well as the significant physical features
16 of the site and surrounding area that may affect

1 contaminant transport and risk to human health and safety
2 and the environment.

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

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

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

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

1 (A) Executive summary.

2 (B) Site history.

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

4 (D) Documentation of all field activities,
5 including quality assurance.

6 (E) Documentation regarding the development of
7 proposed remediation objectives.

8 (F) Interpretation of results.

9 (G) Conclusions.

10 (b) Corrective action.

11 (1) If the site investigation confirms none of the
12 applicable indicator contaminants exceed the proposed
13 remediation objectives, within 30 days after completing
14 the site investigation the owner or operator shall submit
15 to the Agency for approval a corrective action completion
16 report in accordance with this Section.

17 (2) If any of the applicable indicator contaminants
18 exceed the remediation objectives approved for the site,
19 within 30 days after the Agency approves the site
20 investigation completion report the owner or operator
21 shall submit to the Agency for approval a corrective
22 action plan designed to mitigate any threat to human
23 health, human safety, or the environment resulting from
24 the underground storage tank release. The plan shall
25 describe the selected remedy and evaluate its ability and
26 effectiveness to achieve the remediation objectives

1 approved for the site. At a minimum, the report shall
2 include all of the following:

3 (A) Executive summary.

4 (B) Statement of remediation objectives.

5 (C) Remedial technologies selected.

6 (D) Confirmation sampling plan.

7 (E) Current and projected future use of the
8 property.

9 (F) Applicable preventive, engineering, and
10 institutional controls including long-term
11 reliability, operating, and maintenance plans, and
12 monitoring procedures.

13 (G) A schedule for implementation and completion
14 of the plan.

15 (3) Any owner or operator intending to seek payment
16 from the Fund shall submit to the Agency for approval a
17 corrective action budget that includes, but is not limited
18 to, an accounting of all costs associated with the
19 implementation and completion of the corrective action
20 plan.

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

25 (5) Within 30 days after the completion of a
26 corrective action plan that achieves applicable

1 remediation objectives the owner or operator shall submit
2 to the Agency for approval a corrective action completion
3 report. The report shall demonstrate whether corrective
4 action was completed in accordance with the approved
5 corrective action plan and whether the remediation
6 objectives approved for the site, as well as any other
7 requirements of the plan, have been achieved.

8 (6) If within 4 years after the approval of any
9 corrective action plan the applicable remediation
10 objectives have not been achieved and the owner or
11 operator has not submitted a corrective action completion
12 report, the owner or operator must submit a status report
13 for Agency review. The status report must include, but is
14 not limited to, a description of the remediation
15 activities taken to date, the effectiveness of the method
16 of remediation being used, the likelihood of meeting the
17 applicable remediation objectives using the current method
18 of remediation, and the date the applicable remediation
19 objectives are expected to be achieved.

20 (7) If the Agency determines any approved corrective
21 action plan will not achieve applicable remediation
22 objectives within a reasonable time, based upon the method
23 of remediation and site specific circumstances, the Agency
24 may require the owner or operator to submit to the Agency
25 for approval a revised corrective action plan. If the
26 owner or operator intends to seek payment from the Fund,

1 the owner or operator must also submit a revised budget.

2 (c) Agency review and approval.

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

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

16 (A) For purposes of those plans as identified in
17 paragraph (5) of this subsection (c), the Agency's
18 review may be an audit procedure. Such review or audit
19 shall be consistent with the procedure for such review
20 or audit as promulgated by the Board under Section
21 57.14. The Agency has the authority to establish an
22 auditing program to verify compliance of such plans
23 with the provisions of this Title.

24 (B) For purposes of corrective action plans
25 submitted pursuant to subsection (b) of this Section
26 for which payment from the Fund is not being sought,

1 the Agency need not take action on such plan until 120
2 days after it receives the corrective action
3 completion report required under subsection (b) of
4 this Section. In the event the Agency approved the
5 plan, it shall proceed under the provisions of this
6 subsection (c).

7 (3) In approving any plan submitted pursuant to
8 subsection (a) or (b) of this Section, the Agency shall
9 determine, by a procedure promulgated by the Board under
10 Section 57.14, that the costs associated with the plan are
11 reasonable, will be incurred in the performance of site
12 investigation or corrective action, and will not be used
13 for site investigation or corrective action activities in
14 excess of those required to meet the minimum requirements
15 of this Title. The Agency shall also determine, pursuant
16 to the Project Labor Agreements Act, whether the
17 corrective action shall include a project labor agreement
18 if payment from the Underground Storage Tank Fund is to be
19 requested.

20 (A) For purposes of payment from the Fund,
21 corrective action activities required to meet the
22 minimum requirements of this Title shall include, but
23 not be limited to, the following use of the Board's
24 Tiered Approach to Corrective Action Objectives rules
25 adopted under Title XVII of this Act:

26 (i) For the site where the release occurred,

1 the use of Tier 2 remediation objectives that are
2 no more stringent than Tier 1 remediation
3 objectives.

4 (ii) The use of industrial/commercial property
5 remediation objectives, unless the owner or
6 operator demonstrates that the property being
7 remediated is residential property or being
8 developed into residential property.

9 (iii) The use of groundwater ordinances as
10 institutional controls in accordance with Board
11 rules.

12 (iv) The use of on-site groundwater use
13 restrictions as institutional controls in
14 accordance with Board rules.

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

20 (i) The owner or operator must issue
21 invitations for bids that include, at a minimum, a
22 description of the work being bid and applicable
23 contractual terms and conditions. The criteria on
24 which the bids will be evaluated must be set forth
25 in the invitation for bids. The criteria may
26 include, but shall not be limited to, criteria for

1 determining acceptability, such as inspection,
2 testing, quality, workmanship, delivery, and
3 suitability for a particular purpose. Criteria
4 that will affect the bid price and be considered
5 in the evaluation of a bid, such as discounts,
6 shall be objectively measurable.

7 (ii) At least 14 days prior to the date set in
8 the invitation for the opening of bids, public
9 notice of the invitation for bids must be
10 published in a local paper of general circulation
11 for the area in which the site is located or on an
12 electronic procurement website.

13 (iii) Bids must be opened publicly in the
14 presence of one or more witnesses at the time and
15 place designated in the invitation for bids. The
16 name of each bidder, the amount of each bid, and
17 other relevant information as specified in Board
18 rules must be recorded and submitted to the Agency
19 in the applicable budget. After selection of the
20 winning bid, the winning bid and the record of
21 each unsuccessful bid shall be open to public
22 inspection.

23 (iv) Bids must be unconditionally accepted
24 without alteration or correction. Bids must be
25 evaluated based on the requirements set forth in
26 the invitation for bids, which may include

1 criteria for determining acceptability, such as
2 inspection, testing, quality, workmanship,
3 delivery, and suitability for a particular
4 purpose. Criteria that will affect the bid price
5 and be considered in the evaluation of a bid, such
6 as discounts, shall be objectively measurable. The
7 invitation for bids shall set forth the evaluation
8 criteria to be used.

9 (v) Correction or withdrawal of inadvertently
10 erroneous bids before or after selection of the
11 winning bid, or cancellation of winning bids based
12 on bid mistakes, shall be allowed in accordance
13 with Board rules. After bid opening, no changes in
14 bid prices or other provisions of bids prejudicial
15 to the owner or operator or fair competition shall
16 be allowed. All decisions to allow the correction
17 or withdrawal of bids based on bid mistakes shall
18 be supported by a written determination made by
19 the owner or operator.

20 (vi) The owner or operator shall select the
21 winning bid with reasonable promptness by written
22 notice to the lowest responsible and responsive
23 bidder whose bid meets the requirements and
24 criteria set forth in the invitation for bids. The
25 winning bid and other relevant information as
26 specified in Board rules must be recorded and

1 submitted to the Agency in the applicable budget.

2 (vii) All bidding documentation must be
3 retained by the owner or operator for a minimum of
4 3 years after the costs bid are submitted in an
5 application for payment, except that documentation
6 relating to an appeal, litigation, or other
7 disputed claim must be maintained until at least 3
8 years after the date of the final disposition of
9 the appeal, litigation, or other disputed claim.
10 All bidding documentation must be made available
11 to the Agency for inspection and copying during
12 normal business hours.

13 (C) Any bidding process adopted under Board rules
14 to determine the reasonableness of costs of corrective
15 action shall (i) be optional and (ii) allow bidding
16 only if the owner or operator demonstrates that
17 corrective action cannot be performed for amounts less
18 than or equal to maximum payment amounts adopted by
19 the Board.

20 (4) For any plan or report received after June 24,
21 2002, any action by the Agency to disapprove or modify a
22 plan submitted pursuant to this Title shall be provided to
23 the owner or operator in writing within 120 days of the
24 receipt by the Agency or, in the case of a site
25 investigation plan or corrective action plan for which
26 payment is not being sought, within 120 days of receipt of

1 the site investigation completion report or corrective
2 action completion report, respectively, and shall be
3 accompanied by:

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

6 (B) an explanation of the provisions of the
7 regulations, promulgated under this Act, which may be
8 violated if the plan were approved;

9 (C) an explanation of the specific type of
10 information, if any, which the Agency deems the
11 applicant did not provide the Agency; and

12 (D) a statement of specific reasons why the Act
13 and the regulations might not be met if the plan were
14 approved.

15 Any action by the Agency to disapprove or modify a
16 plan or report or the rejection of any plan or report by
17 operation of law shall be subject to appeal to the Board in
18 accordance with the procedures of Section 40. If the owner
19 or operator elects to incorporate modifications required
20 by the Agency rather than appeal, an amended plan shall be
21 submitted to the Agency within 35 days of receipt of the
22 Agency's written notification.

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

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

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

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

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

7 (d) For purposes of this Title, the term "indicator
8 contaminant" shall mean, unless and until the Board
9 promulgates regulations to the contrary, the following: (i) if
10 an underground storage tank contains gasoline, the indicator
11 parameter shall be BTEX and Benzene; (ii) if the tank
12 contained petroleum products consisting of middle distillate
13 or heavy ends, then the indicator parameter shall be
14 determined by a scan of PNA's taken from the location where
15 contamination is most likely to be present; and (iii) if the
16 tank contained used oil, then the indicator contaminant shall
17 be those chemical constituents which indicate the type of
18 petroleum stored in an underground storage tank. All
19 references in this Title to groundwater objectives shall mean
20 Class I groundwater standards or objectives as applicable.

21 (e) (1) Notwithstanding the provisions of this Section, an
22 owner or operator may proceed to conduct site
23 investigation or corrective action prior to the submittal
24 or approval of an otherwise required plan. If the owner or
25 operator elects to so proceed, an applicable plan shall be
26 filed with the Agency at any time. Such plan shall detail

1 the steps taken to determine the type of site
2 investigation or corrective action which was necessary at
3 the site along with the site investigation or corrective
4 action taken or to be taken, in addition to costs
5 associated with activities to date and anticipated costs.

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

15 (f) All investigations, plans, and reports conducted or
16 prepared under this Section shall be conducted or prepared
17 under the supervision of a licensed professional engineer and
18 in accordance with the requirements of this Title.

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