



Rep. Amy L. Grant

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10300HB1831ham002

LRB103 28077 LNS 59311 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 approved by the  
13 Agency.

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

24 (iv) Bids must be unconditionally accepted  
25 without alteration or correction. Bids must be  
26 evaluated based on the requirements set forth in

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

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

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

1 specified in Board rules must be recorded and  
2 submitted to the Agency in the applicable budget.

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

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

21 (4) For any plan or report received after June 24,  
22 2002, any action by the Agency to disapprove or modify a  
23 plan submitted pursuant to this Title shall be provided to  
24 the owner or operator in writing within 120 days of the  
25 receipt by the Agency or, in the case of a site  
26 investigation plan or corrective action plan for which

1 payment is not being sought, within 120 days of receipt of  
2 the site investigation completion report or corrective  
3 action completion report, respectively, and shall be  
4 accompanied by:

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

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

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

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

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

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

26 (A) Any site investigation plan submitted pursuant

1 to subsection (a) of this Section;

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

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

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

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

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

1 filed with the Agency at any time. Such plan shall detail  
2 the steps taken to determine the type of site  
3 investigation or corrective action which was necessary at  
4 the site along with the site investigation or corrective  
5 action taken or to be taken, in addition to costs  
6 associated with activities to date and anticipated costs.

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

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

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