

Fact Sheet

Project Labor Agreements and the Leaking Underground Storage Tank Program (Public Act 98-109)

What changes were made to the Leaking Underground Storage Tank Program by Public Act 98-109?

The Economic Development Act of 2013 (Public Act 98-109), in part, amended the Environmental Protection Act at 415 ILCS 5/57.7, 57.8, and 57.11; the Prevailing Wage Act at 820 ILCS 130/2; and the Project Labor Agreements Act at 30 ILCS 571/10, generally as follows:

- If payment from the UST Fund is to be requested, in approving any site investigation or corrective action plan, the Illinois EPA must determine, pursuant to the Project Labor Agreements Act, whether the site investigation or corrective action shall include a project labor agreement (PLA).
- If the Illinois EPA determines that site investigation or corrective action must include a PLA, a complete application for payment from the UST Fund must include, in part, a [PLA certification](#) from the UST owner or operator that the site investigation or corrective action was (1) performed under a PLA that meets the requirements of Section 25 of the Project Labor Agreements Act and (2) implemented in a manner consistent with the terms and conditions of the Project Labor Agreements Act and in full compliance with all statutes, regulations, and executive orders as required under the Project Labor Agreements Act and the Prevailing Wage Act.

How do these changes affect UST owners and operators?

UST owners and operators who seek payment from the UST Fund must have a PLA for site investigation or corrective action fieldwork where the Illinois EPA reviews a site investigation or corrective action plan on or after July 25, 2013, and determines that a PLA is required for such activities. Subsequent applications for payment from the UST Fund for costs related to such activities must include a PLA certification signed by the UST owner or operator.

What is a PLA?

A PLA is a form of pre-hire collective bargaining agreement entered into pursuant to the Project Labor Agreements Act (30 ILCS 571) that covers all terms and conditions of employment on a specific project. The PLA, in part, sets forth procedures for resolving disputes and grievances; contains guarantees against strikes, lockouts, or similar actions; ensures a reliable source of skilled and experienced labor; sets forth goals for hours to be performed by underrepresented minorities and females; permits the selection of the lowest qualified responsible bidder; and binds all contractors and subcontractors on the public works project.

What activities require a PLA?

Activities that require a PLA include Stage 2 site investigation fieldwork, Stage 3 site investigation fieldwork, or corrective action fieldwork where the Illinois EPA determines that a PLA shall be included. Generally, the fieldwork activities would be those performed by personnel such as laborers, truck drivers, electricians,

plumbers, equipment operators, or mechanics. Determinations as to whether a PLA is required are made by the Illinois EPA on a project-by-project basis. Please contact Leaking UST Program staff if you have questions about whether the PLA requirement applies to the site investigation or corrective action activities at your site.

Is there a model PLA that may be used?

Yes. The [model PLA](#) is linked herein.

Are emergency situations subject to PLAs?

No.

Are early action activities subject to PLAs?

No. The amendments to the Environmental Protection Act apply to Section 57.7 for site investigation and corrective action. (See below regarding the timing of the Illinois EPA's decision regarding whether a PLA will be required.)

Are Stage 1 site investigation activities subject to PLAs?

No. The Illinois EPA's authority to require the use of a PLA is limited to making such determination while reviewing and approving a site investigation plan or a corrective action plan (Section 57.7(c)(3) of the Environmental Protection Act). The Illinois EPA does not review Stage 1 site investigation plans. Rather, such plans consist of a certification pursuant to 35 Ill. Adm. Code 734.315(b).

What types of activities are not subject to PLAs?

Non-fieldwork activities performed off-site such as laboratory analysis, report preparation, calculation of Tier 2 remediation objectives, negotiation of highway authority agreements, etc., as well as fieldwork performed by professional consulting firm staff such as sample collection, are examples of activities that would not require the use of a PLA.

If the Illinois EPA required a PLA but my application for payment from the UST Fund does not include a signed PLA certification, will my application for payment be approved?

No. For site investigation or corrective action activities that must include a PLA, a complete application for payment must contain the PLA certification from the UST owner or operator in order for payment from the UST Fund to be approved (415 ILCS 5/57.8(a)(6)(F)).

Are there any other new reporting requirements associated with the use of a PLA?

Yes. Pursuant to Section 37 of the Project Labor Agreements Act, workforce participation under the PLA by minorities and females must be reported. The *Workforce Participation Quarterly Reporting Form* is provided as part of the Application for Payment Forms.

Am I required to comply with prevailing wage provisions?

Yes. Public Act 98-109 expanded the definition of "public works" at Section 2 of the Prevailing Wage Act (820 ILCS 130) to include any activities performed pursuant to Title XVI of the Environmental Protection Act for which payment from the UST Fund is requested. This includes emergency situations, early action, all stages of site investigation, and corrective action. Please note that prevailing wage provisions apply regardless of whether the Illinois EPA determines that a PLA is required. Prevailing wage requirements are overseen and enforced by the Illinois Department of Labor. If you have questions about prevailing wage, please visit the Illinois Department of Labor Web site at www.illinois.gov/idol or dial (217) 782-1710.

When did Public Act 98-109 become effective?

The law became effective July 25, 2013.

Who should I contact if I have questions?

You may contact the project manager on-call for the Leaking UST Section at 217-524-3300.

This fact sheet is for general information only and is not intended to replace, interpret, or modify laws, rules, or regulations.

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