ATTACHMENT B

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SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND UNDERGROUND STORAGE TANK PROGRAMS

PART 732
PETROLEUM UNDERGROUND STORAGE TANKS
(RELEASES REPORTED SEPTEMBER 23, 1994, THROUGH JUNE 23, 2002)

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AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17].

SOURCE: Adopted in R94-2 at 18 Ill. Reg. 15008, effective September 23, 1994; amended in R97-10 at 21 Ill. Reg. 3617, effective July 1, 1997; amended in R01-26 at 26 Ill. Reg. 7119, effective April 29, 2002; amended in R04-22/23 at 30 Ill. Reg. 4928, effective March 1, 2006; amended in R07-17 at 31 Ill. Reg. 16132, effective November 21, 2007.

SUBPART A: GENERAL

Section 732.100 Applicability

a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to Illinois Emergency Management Agency (IEMA) on or after September 23, 1994, but prior to June 24, 2002, in accordance with regulations adopted by the Office of the State Fire Marshal (OSFM). It also applies to owners or operators that, prior to June 24, 2002, elected to proceed in accordance with this Part pursuant to Section 732.101 of this Part. This Part does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Act.

b) Upon the receipt of a corrective action order issued by the OSFM prior to June 24, 2002, and pursuant to Section 57.5(g) of the Act, where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and taken out of operation before January 2, 1974, or any underground storage tank system used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit shall conduct corrective action in accordance with this Part.

c) Owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 732.105 of this Part to expedite investigative, preventive or corrective action by an owner or operator or to initiate such action.

d) The following underground storage tank systems are excluded from the requirements of this Part:

1) Equipment or machinery that contains petroleum substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

2) Any underground storage tank system whose capacity is 110 gallons or less.

3) Any underground storage tank system that contains a de minimis concentration of petroleum substances.

4) Any emergency spill or overfill containment underground storage tank system that is expeditiously emptied after use.

5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 USC 1251 *et seq*.).

6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (42 USC 3251 *et seq*.) or a mixture of such hazardous waste or other regulated substances.

e) Owners or operators subject to this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.101 Election to Proceed under Part 732

a) Prior to June 24, 2002, owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority on or before September 12, 1993

were able to elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. The election became effective upon receipt by the Agency and shall not be withdrawn. However, an owner or operator that elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

b) Prior to June 24, 2002, except as provided in Section 732.100(b) of this Part, owners or operators of underground storage tanks (USTs) used exclusively to store heating oil for consumptive use on the premises where stored and that serve other than a farm or residential unit were able to elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. The election became effective upon receipt by the Agency and shall not be withdrawn. However, an owner or operator that elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

c) If the owner or operator elected to proceed pursuant to this Part, corrective action costs incurred in connection with the release and prior to the notification of election shall be payable from the Fund in the same manner as was allowable under the law applicable to the owner or operator prior to the notification of election. Corrective action costs incurred after the notification of election shall be payable from the Fund in accordance with this Part. Corrective action costs incurred on or after the effective date of an election to proceed in accordance with 35 Ill. Adm. Code 734 shall be payable from the Fund in accordance with that Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.102 Severability

If any provision of this Part or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of this Part as a whole or of any portion not adjudged invalid.

Section 732.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5].

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Alternative Technology" means a process or technique, other than conventional technology, used to perform a corrective action with respect to soils contaminated by releases of petroleum from an underground storage tank.

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank [415 ILCS 5/57.2].

"Class I Groundwater" *means groundwater that meets the Class I: potable resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act* [415 ILCS 5/57.2].

"Class III Groundwater" *means groundwater that meets the Class III: special resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act* [415 ILCS 5/57.2].

"Community water supply" means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents [415 ILCS 5/3.145].

"Confirmed Exceedence" means laboratory verification of an exceedence of the applicable remediation objectives.

"Confirmation of a Release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Conventional Technology" means a process or technique to perform a corrective action by removal, transportation and disposal of soils contaminated by a release of petroleum from an underground storage tank in accordance with applicable laws and regulations, but without processing to remove petroleum from the soils.

"Corrective action" means activities associated with compliance with the provisions of Sections 57.6 and 57.7 of the Act [415 ILCS 5/57.2].

"County Highway" means county highway as defined in the Illinois Highway Code [605 ILCS 5].

"District Road" means a district road as defined in the Illinois Highway Code [605 ILCS 5].

"Environmental Land Use Control" means Environmental Land Use Control as defined in 35 Ill. Adm. Code 742.200.

"Federal Landholding Entity" means that federal department, agency or instrumentality with the authority to occupy and control the day-to-day use, operation and management of Federally Owned Property.

"Federally Owned Property" means real property owned in fee simple by the United States on which an institutional control is or institutional controls are sought to be placed in accordance with this Part.

"Fill Material" *means non-native or disturbed materials used to bed and backfill around an underground storage tank* [415 ILCS 5/57.2].

"Financial Interest" means any ownership interest, legal or beneficial, or being in the relationship of director, officer, employee, or other active participant in the affairs of a party. Financial interest does not include ownership of publicly traded stock.

"Free Product" means a contaminant that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in water).

"Full Accounting" means a compilation of documentation to establish, substantiate and justify the nature and extent of the corrective action costs incurred by an owner or operator.

"Fund" *means the Underground Storage Tank Fund* [415 ILCS 5/57.2].

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

"Groundwater" *means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure* [415 ILCS 5/3.210].

"Half-day" means four hours, or a fraction thereof, of billable work time. Half-days must be based upon the total number of hours worked in one calendar day. The total number of half-days per calendar day may exceed two.

"Handling Charges" means administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

"Heating Oil" *means petroleum that is No. 1, No. 2, No. 4 -light, No. 4 -heavy, No. 5 -light, No. 5 -heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker C.* [415 ILCS 5/57.2]

"Highway Authority" means the Illinois Department of Transportation *with respect to a State highway;* the Illinois State Toll Highway Authority with respect to a toll highway; *the county board with respect to a county highway or a county unit district road if a discretionary function is involved and the county superintendent of highways if a ministerial function is involved; the highway commissioner with respect to a township or district road not in a county or unit road district; or the corporate authorities of a municipality with respect to a municipal street* [605 ILCS 5/2-213].

"Highway Authority Agreement" means an agreement with a highway authority that meets the requirements of 35 Ill. Adm. Code 742.1020.

"IEMA" means the Illinois Emergency Management Agency.

"Indemnification" means indemnification of an owner or operator for the amount of judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of

bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator [415 ILCS 5/57.2].

"Indicator Contaminants" means the indicator contaminants set forth in Section 732.310 of this Part.

"Institutional Control" means a legal mechanism for imposing a restriction on land use as described in 35 Ill. Adm. Code 742, Subpart J.

"Land Use Control Memorandum of Agreement" means an agreement entered into between one or more agencies of the United States and the Illinois Environmental Protection Agency that limits or places requirements upon the use of Federally Owned Property for the purpose of protecting human health or the environment, or that is used to perfect a No Further Remediation Letter that contains land use restrictions.

"Licensed Professional Engineer" *means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering* [415 ILCS 5/57.2].

"Licensed Professional Geologist" *means a person licensed under the laws of the State of Illinois to practice as a professional geologist* [415 ILCS 5/57.2].

"Man-made Pathway" means constructed routes that may allow for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches or previously excavated and filled areas.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural Pathway" means natural routes for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Non-community Water Supply" *means a public water supply that is not a community water supply* [415 ILCS 5/3.145].

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a sudden or nonsudden release from an underground storage tank [415 ILCS 5/57.2].

"OSFM" means the Office of the State Fire Marshal.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (Derived from 42 USC 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground shall not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

> In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use or dispensing of regulated substances;
>
> In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the discontinuation of its use; (Derived from 42 USC 6991)
>
> *Any person who has submitted to the Agency a written election to proceed under* the underground storage tank program *and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "No Further Remediation Letter" by the Agency pursuant to* the underground storage tank program [415 ILCS 5/57.2].

"Perfect" or "Perfected" means recorded or filed for record so as to place the public on notice, or as otherwise provided in Section 732.703(c) and (d) of this Part.

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body and shall include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 USC 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). (Derived from 42 USC 6991)

"Physical Soil Classification" *means verification* of geological conditions consistent with regulations for identifying and protecting potable resource groundwater or verification *that subsurface strata are as generally mapped in the publication Illinois Geological Survey Circular (1984) entitled "Potential For Contamination Of Shallow Aquifers In Illinois," by Berg, Richard C., et al. Such classification may include review of soil borings, well logs, physical soil analysis, regional geologic maps, or other scientific publication.* [415 ILCS 5/57.2]

"Potable" *means generally fit for human consumption in accordance with accepted water supply principles and practices* [415 ILCS 5/3.340].

"Practical quantitation limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 732.104 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 732.104 of this Part.

"Property Damage" *means physical injury to, destruction of, or contamination of tangible property* owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes *all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank* [415 ILCS 5/57.2].

"Public Water Supply" *means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply"* [415 ILCS 5/3.365].

"Registration" means registration of an underground storage tank with the OSFM in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

"Regulated recharge area" means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination [415 ILCS 5/3.390].

"Regulated Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC Sec. 9601(14)) (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (42 USC 6921 et seq.)), and petroleum. (Derived from 42 USC 6991)

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils [415 ILCS 5/57.2].

"Residential Tank" means an underground storage tank located on property used primarily for dwelling purposes.

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives or dormitories.

"Right-of-way" means *the land, or interest therein, acquired for or devoted to a highway* [605 ILCS 5/2-217].

"Setback Zone" *means a geographic area, designated pursuant to the Act or regulations* (see 35 Ill. Adm. Code, Subtitle F), *containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or*

regulations are applicable in order to protect groundwater [415 ILCS 5/3.450].

"Site" *means any single location, place, tract of land or parcel of property including contiguous property not separated by a public right-of-way* [415 ILCS 5/57.2].

"State Highway" means a State highway as defined in the Illinois Highway Code [605 ILCS 5].

"Stratigraphic Unit" means a site-specific geologic unit of native deposited material and/or bedrock of varying thickness (e.g., sand, gravel, silt, clay, bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct contrast in geologic material or a change in physical features within a zone of gradation. For the purposes of this Part, a change in stratigraphic unit is identified by one or a combination of differences in physical features such as texture, cementation, fabric, composition, density, and/or permeability of the native material and/or bedrock.

"Street" means a street as defined in the Illinois Highway Code [605 ILCS 5].

"Surface Body of Water" or "Surface Water Body" means a natural or man-made body of water on the ground surface including, but not limited to, lakes, ponds, reservoirs, retention ponds, rivers, streams, creeks and drainage ditches. Surface body of water does not include puddles or other accumulations of precipitation, run-off or groundwater in UST excavations.

"Tank Field" means all underground storage tanks at a site that reside within a circle with a 100 foot radius.

"Toll Highway" means a toll highway as defined in the Toll Highway Act [605 ILCS 10].

"Township Road" means a township road as defined in the Illinois Highway Code [605 ILCS 5].

"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et seq.), or which is an intrastate pipeline facility regulated under State laws as provided in either of these provisions of law, and that is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor. (Derived from 42 USC 6991)

The term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit [415 ILCS 5/57.2].

"UST System" or "Tank System" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wellhead Protection Area" means the wellhead protection area of a community water supply well as determined under the Agency's wellhead protection program pursuant to 42 USC 300h-7.

(Source: Amended at 31 Ill. Reg. 16132, effective November 21, 2007)

Section 732.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428-2959 (610) 832-9585

ASTM D 422-63, Standard Test Method for Particle-Size Analysis of Soils, approved November 21, 1963 (reapproved 1990).

ASTM D 1140-92, Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 μm) Sieve, approved November 15, 1992.

ASTM D 2216-92, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, approved June 15, 1992.

ASTM D 4643-93, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved July 15, 1993.

ASTM D 2487-93, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993.

ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993.

ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter, approved June 22, 1990.

ASTM D 4525-90, Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.

ASTM D 1587-83, Standard Practice for Thin-Walled Tube Sampling of Soils, approved August 17, 1983.

ISGS. Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL 61820-6964 (217) 333-4747

Richard C. Berg, John P. Kempton, Keros Cartwright, "Potential for Contamination of Shallow Aquifers in Illinois" (1984), Circular No. 532.

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703) 605-6000 or (800) 553-6847

"Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010 (June 1991);

"Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111 (May 1994);

"Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039 (December 1988) (revised July 1991);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August 1992);

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August 1995);

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, Third Edition (September1986), as amended by Updates I, IIA, III, and IIIA (Final Update IIIA dated April 1998), Doc. No. 955-001-00000-1.

b) This Section incorporates no later editions or amendments.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.105 Agency Authority to Initiate Investigative, Preventive or Corrective Action

a) *The Agency has the authority to do either of the following:*

1) *Provide notice to the owner or operator, or both, of an underground storage tank whenever there is a release or substantial threat of a release of petroleum from such tank. Such*

notice shall include the identified investigation or response action and an opportunity for the owner or operator, or both, to perform the response action.

2) *Undertake investigative, preventive or corrective action whenever there is a release or a substantial threat of a release of petroleum from an underground storage tank. (Section 57.12© of the Act)*

b) *If notice has been provided under this Section, the Agency has the authority to require the owner or operator, or both, of an underground storage tank to undertake preventive or corrective action whenever there is a release or substantial threat of a release of petroleum from such tank.* (Section 57.12(d) of the Act)

Section 732.106 Laboratory Certification

All quantitative analyses of samples collected on or after January 1, 2003, and utilizing any of the approved test methods identified in 35 Ill. Adm. Code 186.180 shall be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186. A certification from the accredited laboratory stating that the samples were analyzed in accordance with the requirements of this Section shall be included with the sample results when they are submitted to the Agency. Quantitative analyses not utilizing an accredited laboratory in accordance with Part 186 shall be deemed invalid.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.108 Licensed Professional Engineer or Licensed Professional Geologist Supervision

All investigations, plans, budget plans, and reports conducted or prepared under this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part, must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist. High Priority Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part must be prepared under the supervision of a Licensed Professional Engineer.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications

a) All plans, budget plans, and reports must be submitted to the Agency on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. At a minimum, all site maps submitted to the Agency must meet the following requirements:

1) The maps must be of sufficient detail and accuracy to show required information;

2) The maps must contain the map scale, an arrow indicating north orientation, and the date the map was created; and

3) The maps must show the following:

A) The property boundary lines of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;

B) The uses of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;

C) The locations of all current and former USTs at the site, and the contents of each UST; and

D) All structures, other improvements, and other features at the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release, including but not limited to buildings, pump islands, canopies, roadways and other paved areas, utilities, easements, rights-of-way, and actual or potential natural or man-made pathways.

b) All plans, budget plans, and reports must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt executed by Agency personnel acknowledging receipt of documents by hand delivery or messenger or from certified or registered mail.

c) All plans, budget plans, and reports must be signed by the owner or operator and list the owner's or operator's full name, address, and telephone number.

d) All plans, budget plans, and reports submitted pursuant to this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part, must contain the following certification from a Licensed Professional Engineer or Licensed Professional Geologist. Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part must contain the following certification from a Licensed Professional Engineer.

> I certify under penalty of law that all activities that are the subject of this plan, budget plan, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget plan, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in the plan, budget plan, or report has been completed in accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill. Adm. Code 732, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Agency, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

e) Except in the case of sites subject to Section 732.703(c) or (d) of this Part, reports documenting the completion of corrective action at a site must contain a form addressing site ownership. At a minimum, the form must identify the land use limitations proposed for the site, if land use limitations are proposed; the site's common address, legal description, and real estate tax/parcel index number; and the names and addresses of all title holders of record of the site or any portion of the site. The form must also contain the following certification, by original signature, of all title holders of record of the site or any portion of the site, or the agent(s) of such person(s):

> I hereby affirm that I have reviewed the attached report entitled ____________ and dated ____________, and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further affirm that I have no objection to the recording of a No Further Remediation Letter containing the

terms and conditions identified in the report upon the property I own.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.112 Notification of Field Activities

The Agency may require owners and operators to notify the Agency of field activities prior to the date the field activities take place. The notice must include information prescribed by the Agency, and may include, but is not limited to, a description of the field activities to be conducted, the person conducting the activities, and the date, time, and place the activities will be conducted. The Agency may, but is not required to, allow notification by telephone, facsimile, or electronic mail. This Section does not apply to activities conducted within 45 days plus 14 days after initial notification to IEMA of a release, or to free product removal activities conducted within 45 days plus 14 days after the confirmation of the presence of free product.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.114 LUST Advisory Committee

Once each calendar quarter the Agency must meet with a LUST Advisory Committee to discuss the Agency's implementation of this Part, provided that the Agency or members of the Committee raise one or more issues for discussion. The LUST Advisory Committee must consist of the following individuals: one member designated by the Illinois Petroleum Marketers Association, one member designated by the Illinois Petroleum Council, one member designated by the American Consulting Engineers Council of Illinois, one member designated by the Illinois Society of Professional Engineers, one member designated by the Illinois Chapter of the American Institute of Professional Geologists, two members designated by the Professionals of Illinois for the Protection of the Environment, one member designated by the Illinois Association of Environmental Laboratories, one member designated by the Illinois Environmental Regulatory Group, one member designated by the Office of the State Fire Marshal, and one member designated by the Illinois Department of Transportation. Members of the LUST Advisory Committee must serve without compensation.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART B: EARLY ACTION

Section 732.200 General

Owners and operators of underground storage tanks shall, in response to all confirmed releases of petroleum, *comply with all applicable statutory and regulatory reporting and response requirements.* [415 ILCS 5/57.6] No work plan or corresponding budget plan shall be required for conducting early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.201 Agency Authority to Initiate

Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to require or initiate early action activities in accordance with the remainder of this Subpart B.

Section 732.202 Early Action

a) Upon confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, shall perform the following initial response actions within 24 hours after the release:

   1) Report the release to IEMA (e.g., by telephone or electronic mail);

   2) Take immediate action to prevent any further release of the regulated substance to the environment; and

   3) Identify and mitigate fire, explosion and vapor hazards.

b) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall perform the following initial abatement measures:

   1) Remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment;

   2) Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

   3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from

the UST excavation zone and entered into subsurface structures (such as sewers or basements);

4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;

5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with regulations promulgated by the OSFM. In selecting sample types, sample locations, and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release; and

6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Section 732.203.

c) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section and any resulting information or data.

d) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in subsections (a) and (b) of this Section. This information shall include, but is not limited to, the following:

1) Data on the nature and estimated quantity of release;

2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;

3) Results of the site check required at subsection (b)(5) of this Section; and

4) Results of the free product investigations required at subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 732.203 of this Part.

e) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator shall submit to the Agency the information collected in compliance with subsection (d) of this Section in a manner that demonstrates its applicability and technical adequacy. The information shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

f) *Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system, or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal* (see 41 Ill. Adm. Code 160, 170, 180, 200). *The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment for early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank.* Early action may also include disposal in accordance with applicable regulations or ex situ treatment of contaminated fill material removed from within 4 feet from the outside dimensions of the tank. [415 ILCS 5/57.6(b)].

g) For purposes of payment from the Fund, the activities set forth in subsection (f) of this Section shall be performed within 45 days after initial notification to IEMA of a release plus 14 days, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days plus 14 days. The owner or operator shall notify the Agency in writing of such circumstances within 45 days after initial notification to IEMA of a release plus 14 days. Costs incurred beyond 45 days plus 14 days shall be eligible if the Agency determines that they are consistent with early action.

BOARD NOTE: Owners or operators seeking payment from the Fund are to first notify IEMA of a suspected release and then confirm the release within 14 days to IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code 170.560 and 170.580. The Board is setting the beginning of the payment period at subsection (g) to correspond to the notification and confirmation to IEMA.

h) The owner or operator shall determine whether the areas or locations of soil contamination exposed as a result of early action excavation (e.g.,

excavation boundaries, piping runs) or surrounding USTs that remain in place meet the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

1) At a minimum, for each UST that is removed, the owner or operator shall collect and analyze soil samples as follows. The Agency must allow an alternate location for, or excuse the collection of, one or more samples if sample collection in the following locations is made impracticable by site-specific circumstances.

A) One sample must be collected from each UST excavation wall. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified on a wall, the sample must be collected from the center of the wall length at a point located one-third of the distance from the excavation floor to the ground surface. For walls that exceed 20 feet in length, one sample must be collected for each 20 feet of wall length, or fraction thereof, and the samples must be evenly spaced along the length of the wall. For USTs abandoned in place, the samples must be collected via borings drilled as close as practicable to the UST backfill.

B) Two samples must be collected from the excavation floor below each UST with a volume of 1,000 gallons or more. One sample must be collected from the excavation floor below each UST with a volume of less than 1,000 gallons. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If areas of contamination cannot be identified, the samples must be collected from below each end of the UST if its volume is 1,000 gallons or more, and from below the center of the UST if its volume is less than 1,000 gallons.

C) One sample must be collected from the floor of each 20 feet of UST piping run excavation, or fraction thereof. The samples must be collected from a location representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a length of piping run excavation being sampled, the sample must be collected from the center of the length being sampled. For UST piping abandoned in place, the samples

must be collected in accordance with subsection (h)(2)(B) of this Section.

D) If backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation.

E) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section 732.310(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) through (D) of this Section must then be analyzed for the applicable used oil indicator contaminants.

2) At a minimum, for each UST that remains in place, the owner or operator must collect and analyze soil samples as described in subsections (h)(2)(A through (D). The Agency must allow an alternate location for, or excuse the drilling of, one or more borings if drilling in the following locations is made impracticable by site-specific circumstances.

A) One boring must be drilled at the center point along each side of each UST, or along each side of each cluster of multiple USTs, remaining in place. If a side exceeds 20 feet in length, one boring must be drilled for each 20 feet of side length, or fraction thereof, and the borings must be evenly spaced along the side. The borings must be drilled in the native soil surrounding the UST(s) and as close practicable to, but not more than five feet from, the backfill material surrounding the UST(s). Each boring must be drilled to a depth of 30 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 30 feet below grade.

B) Two borings, one on each side of the piping, must be drilled for every 20 feet of UST piping, or fraction thereof, that remains in place. The borings must be drilled as close as practicable to, but not more than five feet from, the locations of suspected piping releases. If no release is suspected within a length of UST piping being sampled, the

borings must be drilled in the center of the length being sampled. Each boring must be drilled to a depth of 15 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 15 feet below grade. For UST piping that is removed, samples must be collected from the floor of the piping run in accordance with subsection (h)(1)(C) of this Section.

C) If auger refusal occurs during the drilling of a boring required under subsection (h)(2)(A) or (B) of this Section, the boring must be drilled in an alternate location that will allow the boring to be drilled to the required depth. The alternate location must not be more than five feet from the boring's original location. If auger refusal occurs during drilling of the boring in the alternate location, drilling of the boring must cease and the soil samples collected from the location in which the boring was drilled to the greatest depth must be analyzed for the applicable indicator contaminants.

D) One soil sample must be collected from each five-foot interval of each boring required under subsections (h)(2)(A) through (C) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval, provided, however, that soil samples must not be collected from soil below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.

3) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, and if none of the criteria set forth in subsections (h)(4)(A) through (C) are met, within 30 days after the completion of early action activities the owner or operator shall submit a report demonstrating compliance with those remediation objectives. The report must include, but is not limited to, the following:

A) A characterization of the site that demonstrates compliance with the most stringent Tier 1 remediation objectives of 35

Ill. Adm. Code 742 for the applicable indicator contaminants;

B) Supporting documentation, including, but not limited to, the following:

i) A site map meeting the requirements of Section 732.110(a)(1) of this Part that shows the locations of all samples collected pursuant to this subsection (h);

ii) Analytical results, chain of custody forms, and laboratory certifications for all samples collected pursuant to this subsection (h); and

iii) A table comparing the analytical results of all samples collected pursuant to this subsection (h) to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

C) A site map containing only the information required under Section 732.110(a)(1) of this Part.

4) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been met, or if one or more of the following criteria are met, the owner or operator shall continue evaluation in accordance with Subpart C of this Part.

A) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants (e.g., as found during release confirmation or previous corrective action measures);

B) Free product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part; or

C) There is evidence that contaminated soils may be or may have been in contact with groundwater, unless:

i) The owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping; and

ii) The Agency determines that further groundwater investigation is not necessary.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.203 Free Product Removal

a) Under any circumstance in which conditions at a site indicate the presence of free product, owners or operators shall remove, to the maximum extent practicable, free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water, while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements of this Section, owners or operators shall:

1) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State and federal regulations;

2) Use abatement of free product migration as a minimum objective for the design of the free product removal system;

3) Handle any flammable products in a safe and competent manner to prevent fires or explosions;

4) Within 45 days after the confirmation of presence of free product from a UST, prepare and submit to the Agency a free product removal report. The report shall, at a minimum, provide the following:

A) The name of the persons responsible for implementing the free product removal measures;

B) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;

C) The type of free product recovery system used;

D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

E) The type of treatment applied to, and the effluent quality expected from, any discharge;

F) The steps that have been or are being taken to obtain necessary permits for any discharge;

G) The disposition of the recovered free product;

H) The steps taken to identify the source and extent of the free product; and

I) A schedule of future activities necessary to complete the recovery of free product still exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or still present as a sheen on groundwater in the tank removal excavation or on surface water. The schedule must include, but not be limited to, the submission of plans and budgets required pursuant to subsections (c) and (d) of this Section; and

5) If free product removal activities are conducted more than 45 days after the confirmation of the presence of free product, submit free product removal reports in accordance with a schedule established by the Agency.

b) For purposes of payment from the Fund, owners or operators are not required to obtain Agency approval for free product removal activities conducted within 45 days after the confirmation of the presence of free product.

c) If free product removal activities will be conducted more than 45 days after the confirmation of the presence of free product, the owner or operator must submit to the Agency for review a free product removal plan. The plan must be submitted with the free product removal report required under subsection (a)(4) of this Section. Free product removal

activities conducted more than 45 days after the confirmation of the presence of free product must not be considered early action activities.

d) Any owner or operator intending to seek payment from the Fund must, prior to conducting free product removal activities more than 45 days after the confirmation of the presence of free product, submit to the Agency a free product removal budget plan with the corresponding free product removal plan. The budget plan must include, but not be limited to, an estimate of all costs associated with the development, implementation, and completion of the free product removal plan, excluding handling charges. The budget plan should be consistent with the eligible and ineligible costs listed in Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan the Agency may require a comparison between the costs of the proposed method of free product removal and other methods of free product removal.

e) Upon the Agency's approval of a free product removal plan, or as otherwise directed by the Agency, the owner or operator must proceed with free product removal in accordance with the plan.

f) Notwithstanding any requirement under this Part for the submission of a free product removal plan or free product removal budget plan, an owner or operator may proceed with free product removal in accordance with this Section prior to the submittal or approval of an otherwise required free product removal plan or budget plan. However, any such removal plan and budget plan must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.

BOARD NOTE: Owners or operators proceeding under subsection (f) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

g) If, following approval of any free product removal plan or associated budget plan, an owner or operator determines that a revised removal plan or budget plan is necessary in order to complete free product removal, the owner or operator must submit, as applicable, an amended free product removal plan or associated budget plan to the Agency for review. The Agency must review and approve, reject, or require modification of the removal amended plan or budget plan in accordance with Subpart E of this Part.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all free product removal plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.204 Application for Payment of Early Action Costs

Owners or operators intending to seek payment for early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product, are not required to submit a corresponding budget plan. The application for payment may be submitted to the Agency upon completion of the early action activities in accordance with the requirements at Subpart F of this Part, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product. Applications for payment of free product removal activities conducted more than 45 days after confirmation of the presence of free product may be submitted upon completion of the free product removal activities.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section 732.300 General

a) Except as provided in subsection (b) of this Section, or unless the owner or operator submits a report pursuant to Section 732.202(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, the owner or operator of any site subject to this Part shall evaluate and classify the site in accordance with the requirements of this Subpart C. All such sites shall be classified as No Further Action, Low Priority or High Priority. Site classifications shall be based on the results of the site evaluation, including, but not limited to, the physical soil classification and the groundwater investigation, if applicable.

b) An owner or operator may choose to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part as an alternative to conducting site classification activities pursuant to this Subpart C provided that:

1) Upon completion of the remediation the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels. The corrective action completion report must include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the remediation and the procedures used for the collection and analysis of samples, soil boring logs, actual analytical results, laboratory certification, site maps, well logs, and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site.

A) Documentation of the water supply well survey conducted pursuant to subsection (b)(3) of this Section must include, but is not limited to, the following:

i) One or more maps, to an appropriate scale, showing the following: The location of the community water supply wells and other potable water supply wells identified pursuant to subsection (b)(3) of this Section, and the setback zone for each well; the location and extent of regulated recharge areas and wellhead protection areas identified pursuant to subsection (b)(3) of this Section; the current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and the modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

ii) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to subsection (b)(3) of this Section;

iii) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to subsection (b)(3) of this Section, the name and title of each person contacted at each

entity, and field observations associated with the identification of potable water supply wells; and

iv) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of subsection (b)(3) of this Section and that the documentation submitted pursuant to subsection (b)(1)(A) of this Section includes the information obtained as a result of the survey.

B) The corrective action completion report must be accompanied by a certification from a Licensed Professional Engineer stating that the information presented in the applicable report is accurate and complete, that corrective action has been completed in accordance with the requirements of the Act and subsection (b) of this Section, and that no further remediation is required at the site.

2) Unless an evaluation pursuant to 35 Ill. Adm. Code 742 demonstrates that no groundwater investigation is necessary, the owner or operator must complete a groundwater investigation under the following circumstances:

A) If there is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants (e.g., as found during release confirmation or previous corrective action measures);

B) If free product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part; or

C) If there is evidence that contaminated soils may be or may have been in contact with groundwater, except that, if the owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping, the owner or operator does not have to complete a groundwater

investigation, unless the Agency's review reveals that further groundwater investigation is necessary.

3) As part of the remediation conducted under subsection (b) of this Section, owners and operators must conduct a water supply well survey in accordance with this subsection (b)(3).

A) At a minimum, the owner or operator must identify all potable water supply wells located at the site or within 200 feet of the site, all community water supply wells located at the site or within 2,500 feet of the site, and all regulated recharge areas and wellhead protection areas in which the site is located. Actions taken to identify the wells must include, but is not limited to, the following:

i) Contacting the Agency's Division of Public Water Supplies to identify community water supply wells, regulated recharge areas, and wellhead protection areas;

ii) Using current information from the Illinois State Geological Survey, the Illinois State Water Survey, and the Illinois Department of Public Health (or the county or local health department delegated by the Illinois Department of Public Health to permit potable water supply wells) to identify potable water supply wells other than community water supply wells; and

iii) Contacting the local public water supply entities to identify properties that receive potable water from a public water supply.

B) In addition to the potable water supply wells identified pursuant to subsection (b)(3)(A) of this Section, the owner or operator must extend the water supply well survey if soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants extends beyond the site's property boundary, or, as part of remediation, the owner or operator leaves in place soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants and contamination

exceeding such objectives is modeled to migrate beyond the site's property boundary. At a minimum, the extended water supply well survey must identify the following:

i) All potable water supply wells located within 200 feet, and all community water supply wells located within 2,500 feet, of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

ii) All regulated recharge areas and wellhead protection areas in which the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants is located.

C) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but are not limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely to be used, but that is not served by a public water supply or a well identified pursuant to subsections (b)(3)(A) or (b)(3)(b) of this Section. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).

BOARD NOTE: Owners or operators proceeding under subsection (b) of this Section are advised that they are not entitled to payment from the Fund for costs incurred after completion of early action activities in accordance with Subpart B. See Subpart F of this Part.

c) For corrective action completion reports submitted pursuant to subsection (b) of this Section, the Agency shall issue a No Further Remediation Letter upon approval of the report by the Agency in accordance with Subpart E.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.302 No Further Action Sites

a) Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as No Further Action if all of the following criteria are satisfied:

1) The physical soil classification procedure completed in accordance with Section 732.307 confirms either of the following:

A) "Berg Circular"

i) The site is located in an area designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and

ii) The site's actual physical soil conditions are verified as consistent with those designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois"; or

B) The site soil characteristics satisfy the criteria of Section 732.307(d)(3) of this Part;

2) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

3) After completion of early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural pathways or man-made pathways, migration of petroleum or vapors threatens human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

4) There is no designated Class III special resource groundwater within 200 feet of the UST system; and

5) After completing early action measures in accordance with Subpart B of this Part, no surface bodies of water are adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.

b) Groundwater investigation shall be required to confirm that a site meets the criteria of a No Further Action site if the Agency has received information indicating that the groundwater is contaminated at levels in excess of the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants at the property boundary line or 200 feet from the UST system, whichever is less. In such cases, a groundwater investigation that meets the requirements of Section 732.307(j) shall be performed. If the investigation confirms there is an exceedence of the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, the Agency may reclassify the site as High Priority.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.303 Low Priority Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as Low Priority if all of the following criteria are met:

a) The physical soil classification and groundwater investigation procedures confirm the following:

1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and

2) "Berg Circular"

A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and

B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or

3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;

b) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

c) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

d) There is no designated Class III special resource groundwater within 200 feet of the UST system; and

e) After completing early action measures in accordance with Subpart B of this Part, there are no surface bodies of water adversely affected by the presence of a visible sheen or free product layer as a result of the release of petroleum.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.304 High Priority Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as High Priority if any of the following are met:

a) The physical soil classification and groundwater investigation procedures confirm the following:

1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and

2) "Berg Circular"

A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and

B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or

3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;

b) The UST system is within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

c) After completing early action measures in accordance with Subpart B of this Part, there is evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

d) There is designated Class III special resource groundwater within 200 feet of the UST system; or

e) After completing early action measures in accordance with Subpart B of this Part, a surface body of water is adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.305 Plan Submittal and Review

a) Unless an owner or operator elects to classify a site under Section 732.312, prior to conducting any site evaluation activities, the owner or operator shall submit to the Agency a site classification plan, including but not limited to a physical soil classification and groundwater investigation plan, satisfying the minimum requirements for site evaluation activities as set forth in Section 732.307. The plans shall be designed to collect data

sufficient to determine the site classification in accordance with Section 732.302, 732.303 or 732.304 of this Part.

b) In addition to the plan required in subsection (a) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a site classification budget plan with the corresponding site classification plan. The budget plan shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation and completion of the site evaluation activities required in Section 732.307, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part.

c) The Agency shall have the authority to review and approve, reject or require modification of any plan or budget plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

d) Notwithstanding subsections (a), (b), and (e) of this Section, an owner or operator may proceed to conduct site evaluation activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required site classification plan or budget plan (including physical soil classification and groundwater investigation plans, costs associated with activities to date, and anticipated further costs). However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.

BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

e) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject, or

require modifications of the amended classification plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all site classification plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.306 Deferred Site Classification; Priority List for Payment

a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the Fund may elect to defer site classification activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met.

1) Approvals of budget plans shall be pursuant to Agency review in accordance with Subpart E of this Part.

2) The Agency shall monitor the availability of funds and shall provide notice of insufficient funds to owners or operators in accordance with Section 732.503(g) of this Part.

3) Owners and operators must submit elections to defer site classification activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The forms must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

4) The Agency must review elections to defer site classification activities to determine whether the requirements of subsection (b) of this Section are met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.

A) The Agency must mail notices of final action on an election by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must

be deemed to have taken place on the post marked date that such notice is mailed.

B) Any action by the Agency to reject an election, or rejection of an election by the Agency's failure to act, is subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

5) Upon approval of an election to defer site classification until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment based solely on the date the Agency receives a complete written election of deferral, with the earliest dates having the highest priority.

6) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner or operator's site. After such notification the owner or operator shall commence site classification activities.

7) Authorization of payment of encumbered funds for deferred site classification activities shall be approved in accordance with the requirements of Subpart F of this Part.

8) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred corrective action pursuant to Section 732.406 with both types of deferrals entering the list and moving up solely on the basis of the date the Agency receives written notice of the deferral.

b) An owner or operator who elects to defer site classification activities under subsection (a) of this Section shall submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:

1) The Agency has approved the owner's or operator's site classification budget plan;

2) The owner or operator has been determined eligible to seek payment from the Fund;

3) The early action requirements of Subpart B of this Part have been met;

4) Groundwater contamination does not exceed Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release, modeling in accordance with 35 Ill. Adm. Code 742 shows that groundwater contamination will not exceed such Tier 1 remediation objectives as a result of the release, and no potable water supply wells are impacted as a result of the release; and

5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but is not limited to, the results of a water supply well survey conducted in accordance with Section 732.307(f) of this Part.

c) An owner or operator may, at any time, withdraw the election to defer site classification activities. The owner or operator must notify the Agency in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with site classification in accordance with the requirements of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.307 Site Evaluation

a) Except as provided in Section 732.300(b), or unless an owner or operator submits a report pursuant to Section 732.202(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met or elects to classify a site under Section 732.312, the owner or operator of any site for which a release of petroleum has been confirmed in accordance with regulations promulgated by the OSFM and reported to IEMA shall arrange for site evaluation and classification in accordance with the requirements of this Section. A Licensed Professional Engineer or Licensed Professional Geologist (or, where appropriate, persons working under the direction of a Licensed Professional Engineer or Licensed Professional Geologist) shall conduct the site evaluation. The

results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer or Licensed Professional Geologist.

b) As a part of each site evaluation, the Licensed Professional Engineer or Licensed Professional Geologist shall conduct a physical soil classification in accordance with the procedures at subsection (c) or (d) of this Section. Except as provided in subsection (e) of this Section, all elements of the chosen method of physical soil classification must be completed for each site. In addition to the requirement for a physical soil classification, the Licensed Professional Engineer or Licensed Professional Geologist shall, at a minimum, complete the requirements at subsections (f) through (j) of this Section before classifying a site as High Priority or Low Priority and subsection (f) through (i) of this Section before classifying a site as No Further Action.

c) Method One for Physical Soil Classification:

1) Soil Borings

A) Prior to conducting field activities, a review of scientific publications and regional geologic maps shall be conducted to determine if the subsurface strata are as generally mapped in the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part. A list of the publications reviewed and any preliminary conclusions concerning the site geology shall be included in the site classification completion report.

B) A minimum of one soil boring to a depth that includes 50 feet of native soil or to bedrock shall be performed for each tank field with a release of petroleum.

C) If, during boring, bedrock is encountered or if auger refusal occurs because of the density of a geologic material, a sample of the bedrock or other material shall be collected to determine permeability or an in situ test shall be performed to determine hydraulic conductivity in accordance with subsections (c)(3)(A) and (c)(3)(B) of this Section. If bedrock is encountered or auger refusal occurs, the Licensed Professional Engineer or Licensed Professional Geologist shall verify that the conditions that prevented the

full boring are expected to be continuous through the remaining required depth.

D) Borings shall be performed within 200 feet of the outer edge of the tank field or at the property boundary, whichever is less. If more than one boring is required per site, borings shall be spaced to provide reasonable representation of site characteristics. The actual spacing of the borings shall be based on the regional hydrogeologic information collected in accordance with subsection (c)(1)(A) of this Section. Location shall be chosen to limit to the greatest extent possible the vertical migration of contamination.

E) Soil borings shall be continuously sampled to ensure that no gaps appear in the sample column.

F) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.

G) Any water bearing units encountered shall be protected as necessary to prevent cross-contamination during drilling.

H) The owner or operator may utilize techniques other than those specified in this subsection (c)(1) for soil classification provided that:

i) The techniques provide equivalent, or superior, information as required by this Section;

ii) The techniques have been successfully utilized in applications similar to the proposed application;

iii) Methods for quality control can be implemented; and

iv) The owner or operator has received written approval from the Agency prior to the start of the investigation.

2) Soil Properties

The following tests shall be performed on a representative sample of each of the stratigraphic units encountered in the native soil boring that has been determined most conducive to transporting contaminants from the

source based on site factors, including but not limited to visual and tactile observations, the classification of the soil, any prior evaluation of the site stratigraphy, the volume of the release, the thickness or extent of the stratigraphic unit, and the requirements of ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993:

A) A soil particle analysis using the test methods specified in ASTM (American Society for Testing and Materials) Standard D 422-63 or D 1140-92, "Standard Test Method for Particle-Size Analysis of Soils," or "Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 μm) Sieve," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

B) A soil moisture content analysis using the test methods specified in ASTM Standard D 2216-92 or D 4643-93, "Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock," or "Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

C) A soil classification using the test methods specified in ASTM Standard D 2487-93 or D 2488-93, "Standard Test Method for Classification of Soils for Engineering Purposes" or "Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

D) Unconfined compression strength shall be determined in tons per square foot by using a hand penetrometer; and

E) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

3) Hydraulic Conductivity

A) If a water bearing unit is encountered while performing soil boring(s) for the physical soil classification, an in-situ hydraulic conductivity test shall be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an insitu hydraulic conductivity test shall be performed on each such unit.

i) Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.

ii) The screen must be contained within the saturated zone.

B) If no water bearing unit is encountered in the required soil boring(s), then the following laboratory analyses shall be conducted, as applicable, on a representative sample from each stratigraphic unit:

i) A hydraulic conductivity analysis of undisturbed or laboratory compacted granular soils (i.e., clay, silt, sand or gravel) using the test method specified in ASTM Standard D 5084-90, "Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.

ii) Granular soils that are estimated to have hydraulic conductivity greater than 1×10^{-3} cm/sec will fail the minimum geologic conditions for "No Further Action", i.e., rating of D, E, F, or G as described in the Berg Circular, and therefore, no physical tests need to be run on the soils.

iii) A hydraulic conductivity analysis of bedrock using the test method specified in ASTM Standard D 4525-90, "Standard Test Method for Permeability of Rocks by Flowing Air," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.

iv) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83,

incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

4) If the results of the physical soil classification or groundwater investigation reveal that the actual site geologic characteristics are different from those generally mapped by the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part, the site classification shall be determined using the actual site geologic characteristics.

d) Method Two for Physical Soil Classification:

1) Soil Borings

A) A minimum of one soil boring to a depth that includes native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of the deepest UST for each tank field with a release of petroleum.

B) This boring shall meet the requirements of subsections (c)(1)(C) through (c)(1)(G) of this Section.

2) Soil Properties

The following tests must be performed on a representative sample of each of the stratigraphic units encountered in the native soil boring that has been determined most conducive to transporting contaminants from the source based on site factors including but not limited to visual and tactile observations, the classification of the soil, any prior evaluation of the site stratigraphy, the volume of the release, the size or extent of the unit, and the requirements of ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993 and incorporated by reference in Section 732.104 of this Part:

A) A soil particle analysis satisfying the requirements of subsection (c)(2)(A) of this Section; and

B) Either:

i) A pump test or equivalent to determine the yield of the geologic material. Methodology, assumptions and any calculations performed shall be submitted as part of the site classification completion report. If the aquifer geometry and transmissivity have been obtained through a site-specific field investigation, an analytical solution may be used to estimate well yield. The Licensed Professional Engineer or Licensed Professional Geologist shall demonstrate the appropriateness of the analytical solution to estimate well yield versus an actual field test. Well yield should be determined for either confined or unconfined formations. Once the yield has been determined site-specifically, the hydraulic conductivity shall be calculated; or

ii) Hydraulic conductivity shall be determined in accordance with subsection (c)(3) of this Section. Once the hydraulic conductivity has been determined site-specifically, the yield shall be calculated.

C) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

3) The results of the boring(s) and tests described in subsections (d)(1) and (d)(2) of this Section shall be used to demonstrate whether the native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of the deepest UST meets all of the following criteria:

A) Does not contain unconsolidated sand, gravel or sand and gravel that is 5 feet or more in thickness with 12 percent or less fines (i.e., fines that pass through a No. 200 sieve

tested according to ASTM Standard Test Method D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference at Section 732.104 of this Part, or other Agency approved method);

B) Does not contain sandstone that is 10 feet or more in thickness, or fractured carbonate that is 15 feet or more in thickness;

C) Is not capable of sustained groundwater yield, from up to a 12 inch borehole, of 150 gallons per day or more from a thickness of 15 feet or less; and

D) Is not capable of hydraulic conductivity of 1×10^{-4} cm/sec or greater.

e) If, during the completion of the requirements of subsection (c) or (d) of this Section, a Licensed Professional Engineer or Licensed Professional Geologist determines that the site geology is not consistent with area D, E, F or G of the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part or that the criteria of subsection (d)(3) are not satisfied, any remaining steps required by subsection (c) or (d) may be suspended, provided that the soil investigation has been sufficient to satisfy the requirements of subsection (g) of this Section. If activities are suspended under this subsection (e), the Licensed Professional Engineer or Licensed Professional Geologist shall complete the requirements of subsections (f) through (j) of this Section in order to determine whether the site is High Priority or Low Priority. The site conditions upon which the suspension of the requirements of subsection (c) or (d) of this Section is based shall be documented in the site classification completion report.

f) Survey of Water Supply Wells. At a minimum, the owner or operator must conduct a water supply well survey to identify all potable water supply wells located at the site and within 200 feet of the site, all community water supply wells located at the site and within 2,500 feet of the site, and all regulated recharge areas and wellhead protection areas in which the site is located. Actions taken to identify the wells must include, but is not limited to, the following.

1) Contacting the Agency's Division of Public Water Supplies to identify community water supply wells, regulated recharge areas, and wellhead protection areas;

2) Using current information from the Illinois State Geological Survey, the Illinois State Water Survey, and the Illinois Department of Public Health (or the county or local health department delegated by the Illinois Department of Public Health to permit potable water supply wells) to identify potable water supply wells other than community water supply wells; and

3) Contacting the local public water supply entities to identify properties that receive potable water from a public water supply.

g) Investigation of Migration Pathways

1) The Licensed Professional Engineer or Licensed Professional Geologist shall conduct an investigation either separately or in conjunction with the physical soil classification to identify all potential natural and man-made migration pathways that are on the site, in rights-of-way attached to the site, or in any area surrounding the site that may be adversely affected as a result of the release of petroleum from the UST system. Once the migration pathways have been identified, the areas along all such pathways shall be further investigated in a manner sufficient to determine whether there is evidence that migration of petroleum or vapors along such pathways:

A) May potentially threaten human health or human safety; or

B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

2) Natural pathways shall be identified using data obtained from investigation at the site. This must include, but is not limited to, identification and location of groundwater if encountered during excavation activities or soil boring activities, identification of different soil strata during excavation activities or soil boring activities and inspection of surface water bodies. Investigation and evaluation of natural migration pathways shall include, for applicable indicator contaminants along potential natural migration pathways:

A) Soil sampling and laboratory analysis of samples; and

B) When groundwater is encountered or when there is potential for surface water contamination, groundwater and surface water sampling and laboratory analysis of samples.

3) Man-made pathways shall be identified from available sources, including but not limited to site plans; a review of underground utilities as identified by the Joint Utility Location Information for Excavators (J.U.L.I.E.), the Chicago Utility Alert Network (Digger), another public locator, or a private locator; and interviews with site owners or personnel. The Licensed Professional Engineer or Licensed Professional Geologist must determine whether migration of indicator contaminants along any of these pathways has occurred, using laboratory analytical data for applicable indicator contaminants obtained as follows:

A) From prior sampling, provided that such laboratory analytical data demonstrates that no contaminant of concern has migrated to or along any man-made pathways;

B) From soil samples, and groundwater samples if groundwater is encountered, taken between man-made pathways and contaminated soil, provided that such laboratory analytical data demonstrates that no contaminant of concern has migrated to or along any man-made pathways; or

C) From soil samples, and groundwater samples if groundwater is encountered, taken along man-made pathways.

4) The Licensed Professional Engineer or Licensed Professional Geologist shall provide a map of the site and any surrounding areas that may be adversely affected by the release of petroleum from the UST system. At a minimum, the map shall be to scale, oriented with north at the top, and shall show the location of the leaking UST system(s) with any associated piping and all potential natural and man-made pathways that are on the site, that are in rights-of-way attached to the site, or that are in areas that may be adversely affected as a result of the release of petroleum.

5) Unless the Agency's review reveals objective evidence to the contrary, the Licensed Professional Engineer or Licensed Professional Geologist shall be presumed correct when certifying whether or not there is evidence that, through natural or man-made pathways, migration of petroleum or vapors:

A) May potentially threaten human health or human safety; or

B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

h) The Licensed Professional Engineer or Licensed Professional Geologist shall verify whether Class III groundwater exists within 200 feet of the UST system.

i) The Licensed Professional Engineer or Licensed Professional Geologist shall locate all surface bodies of water on site and within 100 feet of the site and provide a map noting the locations. All such surface bodies of water shall be inspected to determine whether they have been adversely affected by the presence of a sheen or free product layer resulting from the release of petroleum from the UST system.

j) Groundwater Investigation

1) For sites failing to meet NFA site classification or for sites where a groundwater investigation is necessary pursuant to Section 732.302(b) of this Part, the Licensed Professional Engineer or Licensed Professional Geologist shall perform a groundwater investigation as required under this Part in accordance with this subsection (j) to determine whether the most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been exceeded at the property boundary or 200 feet from the UST system, whichever is less, as a result of the UST release of petroleum.

2) Applicable indicator contaminants shall be those identified pursuant to Section 732.310 of this Part.

3) Except as provided in subsection (j)(6) of this Section, a minimum of four groundwater monitoring wells shall be installed at the property boundary or 200 feet from the UST system, whichever is less. In the event that a groundwater monitoring well cannot be physically installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection (j), the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than this Part requires. However, once the election is made, the owner

or operator may not withdraw the election at a later time. The Agency may require the installation of additional monitoring wells to ensure that at least one monitoring well is located hydraulically upgradient and three monitoring wells are located hydraulically downgradient of the UST system. The wells must be installed so that they provide the greatest likelihood of detecting migration of groundwater contamination. At a minimum, monitoring well construction shall satisfy the following requirements:

A) Construction shall be in a manner that will enable the collection of representative groundwater samples;

B) All monitoring wells shall be cased in a manner that maintains the integrity of the borehole. Casing material shall be inert so as not to affect the water sample. Casing requiring solvent-cement type couplings shall not be used;

C) Wells shall be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section shall be packed with clean, well-rounded and uniform material sized to avoid clogging by the material in the zone being monitored. The slot size of the screen shall be designed to minimize clogging. Screens shall be fabricated from material that is inert with respect to the constituents of the groundwater to be sampled;

D) Annular space above the well screen section shall be sealed with a relatively impermeable, expandable material such as cement/bentonite grout that does not react with or in any way affect the sample, in order to prevent contamination of groundwater samples and groundwater and avoid interconnections. The seal shall extend to the highest known seasonal groundwater level;

E) The annular space shall be backfilled with expanding cement grout from an elevation below the frost line and mounded above the surface and sloped away from the casing so as to divert surface water away;

F) All monitoring wells shall be covered with vented caps and equipped with devices to protect against tampering and damage. Locations of wells shall be clearly marked and protected against damage from vehicular traffic or other activities associated with expected site use; and

G) All wells shall be developed to allow free entry of groundwater, minimize turbidity of the sample, and minimize clogging.

4) Monitoring well construction diagrams prescribed and provided by the Agency shall be completed for each monitoring well.

5) Static water elevations shall be measured for each monitoring well. Groundwater samples shall be taken from each well and analyzed for the applicable indicator contaminants. The data collected shall be used to determine the direction of groundwater flow and whether the applicable groundwater remediation objectives have been exceeded. Samples shall be collected and analyzed in accordance with the following procedures:

A) Samples shall be collected in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 732.104 of this Part, or other procedures approved by the Agency.

B) Groundwater elevation in a groundwater monitoring well shall be determined and recorded to establish the gradient of the groundwater table.

C) The analytical methodology used for the analysis of the indicator contaminants shall be consistent with both of the following:

i) The methodology must have a practical quantitation limit (PQL) at or below the most stringent objectives or detection levels set forth in 35 Ill. Adm. Code 742 or as set for mixtures or degradation products as provided in Section 732.310 of this Part; and

ii) The methodology must be consistent with the methodologies contained in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, as incorporated by reference at Section 732.104, or other Agency approved methods.

D) In addition to analytical results, sampling and analytical reports shall contain the following information:

i) Sample collection information including but not limited to the name of sample collector, time and date of sample collection, method of collection, and monitoring location;

ii) Sample preservation and shipment information including but not limited to field quality control;

iii) Analytical procedures including but not limited to the method detection limits and the practical quantitation limits (PQL);

iv) Chain of custody and control; and

v) Field and lab blanks.

6) As an alternative to the installation of monitoring wells under subsection (j)(3) of this Section, the Licensed Professional Engineer or Licensed Professional Geologist may demonstrate to the Agency through a site-specific evaluation that the groundwater monitoring should not be required.

A) The evaluation shall be based on a demonstration of the following factors:

i) Whether groundwater is present within the depth of the boring used to perform physical soil classification under the selected method (Method One under subsection (c) of this Section or Method Two under subsection (d) of this Section);

ii) Whether groundwater is withdrawn for potable use within 1000 feet of the UST system and at what depths; and

iii) Whether seasonal fluctuation in groundwater could result in groundwater contacting contaminated soil (e.g., historical records).

B) The presence or absence of a water bearing unit under subsection (j)(6)(A)(i) of this Section shall be determined on the basis of at least one soil boring to the depth

necessary to perform physical soil classification under the selected method (Method One under subsection (c) of this Section or Method Two under subsection (d) of this Section), unless auger refusal occurs because of the density of a geologic material or because bedrock is encountered. If auger refusal occurs, then the Licensed Professional Engineer or Licensed Professional Geologist must demonstrate the depth to a water bearing unit from the available site specific or regional information.

C) If the evaluation fails to demonstrate to the Agency that a groundwater investigation should not be required as part of site classification activities, then the Licensed Professional Engineer or Licensed Professional Geologist shall perform a groundwater investigation in accordance with the remainder of this subsection (j).

D) If the evaluation demonstrates to the Agency that a groundwater investigation should not be required, then the site shall be classified as Low Priority, unless other High Priority criteria are present. Upon Agency approval of the evaluation to demonstrate that a groundwater investigation should not be required, then the site shall be classified as Low Priority and a No Further Remediation Letter shall be issued to the owner or operator of the site, unless other High Priority criteria are present.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells

a) Soil boring logs shall be kept for all soil borings. The logs shall be submitted along with the site classification completion report and shall be on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

1) Soil boring logs shall contain the following information at a minimum:

A) Sampling device, sample number and amount of recovery;

B) Total depth of boring to the nearest 6 inches;

C) Detailed field observations describing materials encountered in boring, including soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;

D) Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);

E) Locations of sample(s) used for physical or chemical analysis; and

F) Groundwater levels while boring and at completion.

2) Boring logs for soil boring(s) completed for physical soil classification also shall include the following information, as applicable for the classification method chosen, for each stratigraphic unit encountered at the site:

A) Moisture content;

B) Unconfined compression strength in tons per square foot (TSF) using a hand penetrometer;

C) Unified Soil Classification System (USCS) soil classification group symbol in accordance with ASTM Standard D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in Section 732.104 of this Part, or other Agency approved method; and

D) The reasoning behind the Licensed Professional Engineer's or Licensed Professional Geologist's decision to perform or not perform soil testing pursuant to Section 732.307(c)(2) and (d)(2) of this Part as to each identified stratigraphic unit.

b) Boreholes and monitoring wells shall be abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.309 Site Classification Completion Report

a) Within 30 days after the completion of a site evaluation in accordance with Section 732.307 of this Part, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by Section 732.307 of this Part, the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions, and the certification of a Licensed Professional Engineer or Licensed Professional Geologist of the site's classification as No Further Action, Low Priority or High Priority in accordance with this Subpart C. Documentation of the water supply well survey conducted pursuant to Section 732.307(f) of this Part must include, but is not limited to, the following:

1) One or more maps, to an appropriate scale, showing the following:

A) The location of the community water supply wells and other potable water supply wells identified pursuant to Section 732.307(f) of this Part, and the setback zone for each well;

B) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to Section 732.307(f) of this Part;

C) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

D) The modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The information required under this subsection (D) is not required to be shown in the site classification completion report if modeling is not performed as part of site investigation;

2) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to Section 732.307(f) of this Part;

3) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to Section 732.307(f) of this Part, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

4) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of Section 732.307(f) of this Part and that the documentation submitted pursuant to this Section includes the information obtained as a result of the survey.

b) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.310 Indicator Contaminants

a) For purposes of this Part, the term "indicator contaminants" shall mean the parameters identified in subsections (b) through (i) of this Section.

b) For gasoline, including but not limited to leaded, unleaded, premium and gasohol, the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes and methyl tertiary butyl ether (MTBE), except as provided in subsection (h) of this Section. For leaded gasoline, lead shall also be an indicator contaminant.

c) For aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils, cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions and heavy oils, the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes and the polynuclear aromatics listed in Section 732.Appendix B of this Part. For leaded aviation turbine fuels, lead shall also be an indicator contaminant.

d) For transformer oils the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics and the polychlorinated biphenyl parameters listed in Section 732.Appendix B of this Part.

e) For hydraulic fluids the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, the polynuclear aromatics listed in Section 732.Appendix B of this Part and barium.

f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic naphthas, moderately volatile hydrocarbon solvents and petroleum extender oils, the indicator contaminants shall be the volatile,

base/neutral and polynuclear aromatic parameters listed in Appendix B of this Part. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

g) For used oil the indicator contaminants shall be determined by the results of a used oil soil sample analysis. In accordance with Section 732.202(h) of this Part, soil samples must be collected from the walls and floor of the used oil UST excavation if the UST is removed, or from borings drilled along each side of the used oil UST if the UST remains in place. The sample that appears to be the most contaminated as a result of a release from the used oil UST must then be analyzed for the following parameters. If none of the samples appear to be contaminated a soil sample must be collected from the floor of the used oil UST excavation below the former location of the UST if the UST is removed, or from soil located at the same elevation as the bottom of the used oil UST if the UST remains in place, and analyzed for the following parameters:

1) All volatile, base/neutral, polynuclear aromatic, and metal parameters listed at Appendix B of this Part and any other parameters the Licensed Professional Engineer or Licensed Professional Geologist suspects may be present based on UST usage. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

2) The used oil indicator contaminants shall be those volatile, base/neutral, and metal parameters listed at Section 732.Appendix B of this Part or as otherwise identified at subsection (g)(1) of this Section that exceed their remediation objective at 35 Ill. Adm. Code 742 in addition to benzene, ethylbenzene, toluene, total xylenes, and polynuclear aromatics listed in Appendix B of this Part.

3) If none of the parameters exceed their remediation objective, the used oil indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics listed in Appendix B of this Part.

h) Unless an owner or operator elects otherwise pursuant to subsection (i) of this Section, the term "indicator contaminants" shall not include MTBE for any release reported to the Illinois Emergency Management Agency prior to June 1, 2002 (the effective date of amendments establishing MTBE as an indicator contaminant).

i) An owner or operator exempt from having to address MTBE as an indicator contaminant pursuant to subsection (h) of this Section may elect to include MTBE as an indicator contaminant under the circumstances listed in subsections (1) or (2) of this subsection (i). Elections to include MTBE as an indicator contaminant must be made by submitting to the Agency a written notification of such election signed by the owner or operator. The election must be effective upon the Agency's receipt of the notification and cannot be withdrawn once made. Owners or operators electing to include MTBE as an indicator contaminant must remediate MTBE contamination in accordance with the requirements of this Part.

1) If the Agency has not issued a No Further Remediation Letter for the release; or

2) If the Agency has issued a No Further Remediation Letter for the release and the release has caused off-site groundwater contamination exceeding the remediation objective for MTBE set forth in 35 Ill. Adm. Code 742.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.311 Groundwater Remediation Objectives

For purposes of this Part, remediation objectives for groundwater shall be the groundwater remediation objectives specified in 35 Ill. Adm. Code 742 for the applicable indicator contaminants. For mixtures and degradation products that have been included as indicator contaminants in accordance with Section 732.310 of this Part, the Agency shall determine groundwater remediation objectives on a site-by-site basis.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.312 Classification by Exposure Pathway Exclusion

a) An owner or operator electing to classify a site by exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, shall meet the requirements of this Section, except as provided in subsections (a)(1) and (j) of this Section.

1) Such election shall be made in writing by the owner or operator as part of the submission of the site classification plan under subsection (b) of this Section. The election may be made at any time until the Agency issues a No Further Remediation Letter, provided, however, that the election must be received by the

Agency prior to March 1, 2006. On or after March 1, 2006, owners and operators desiring to proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with 35 Ill. Adm. Code 734 and conduct site investigation and corrective action in accordance with that Part instead of meeting the requirements of this Section.

2) An owner or operator who chooses to revoke an election submitted under subsection (b) of this Section shall do so in writing.

b) The owner or operator, prior to conducting any site evaluation activities, shall submit to the Agency a site classification plan including, but not limited to, a contaminant identification and groundwater investigation plan (if one or more of the criteria set forth in Section 732.202(h)(4)(A) through (C) of this Part are met), satisfying the minimum requirements for site evaluation activities as set forth in this Section. The plans shall be designed to:

1) Determine the full extent of soil or groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. Such activities may include soil borings with sampling and analysis, groundwater monitoring wells with sampling and analysis, groundwater modeling, or a combination of these activities.

2) Collect data sufficient to determine which, if any, of the applicable exposure routes under 35 Ill. Adm. Code 742 can be excluded pursuant to 35 Ill. Adm. Code 742, Subpart C. The data shall include, but is not limited to, site-specific data demonstrating the physical characteristics of soil and groundwater.

c) A Licensed Professional Engineer or Licensed Professional Geologist (or, where appropriate, persons working under the direction of a Licensed Professional Engineer or Licensed Professional Geologist) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer or Licensed Professional Geologist.

d) As a part of each site evaluation, the Licensed Professional Engineer or Licensed Professional Geologist shall conduct physical soil classification and contaminant identification in accordance with the procedures at subsection (b) of this Section.

e) In addition to the plan required in subsection (b) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a site classification budget plan with the corresponding site classification plan. The budget plan shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation and completion of the site evaluation activities required under subsection (b) of this Section, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part.

f) Sites shall be classified as No Further Action if the Licensed Professional Engineer or Licensed Professional Geologist determines that all applicable exposure routes can be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subpart C.

g) Sites shall be classified as High Priority if the Licensed Professional Engineer or Licensed Professional Geologist determines that any of the applicable exposure routes cannot be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subpart C.

h) Within 30 days after the completion of a site evaluation in accordance with this Section, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by this Section, the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions, and the certification of a Licensed Professional Engineer or Licensed Professional Geologist of the site's classification as No Further Action or High Priority in accordance with this Section. For any site classified as High Priority, the report shall also contain the certification of a Licensed Professional Engineer or Licensed Professional Geologist as to which exposure routes, if any, have been excluded from further consideration under 35 Ill. Adm. Code 742, Subpart C.

i) The Agency shall have the authority to review and approve, reject or require modification of any classification plan, budget plan, or report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

j) Notwithstanding subsections (b) and (e) of this Section, prior to March 1, 2006 an owner or operator may proceed to conduct site evaluation activities in accordance with this Section prior to the submittal or approval of any otherwise required site classification plan or budget plan. However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter. On or after March 1, 2006, owners and operators desiring to proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with 35 Ill. Adm. Code 734 and conduct site investigation and corrective action in accordance with that Part instead of meeting the requirements of this Section.

k) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject, or require modification of the amended plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners or operators proceeding under subsection (a)(2) or (j) of this Section are advised that they may not be entitled to full payment from the Fund and that applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. Furthermore, owners or operators may only be reimbursed for one method of site classification. See Subpart F of this Part.

Owners and operators are also advised that the total payment from the Fund for all corrective action plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART D: CORRECTIVE ACTION

Section 732.400 General

a) Following approval of the site evaluation and classification by the Agency pursuant to Subpart C of this Part and except as provided in subsection (b) or (c) of this Section, the owner or operator of a UST system subject to the requirements of this Part shall develop and submit a corrective action plan

and perform corrective action activities in accordance with the procedures and requirements contained in this Subpart D.

b) Owners or operators of sites classified in accordance with the requirements of Subpart C as No Further Action may choose to conduct remediation sufficient to satisfy the remediation objectives referenced in Section 732.408 of this Part.

c) Owners or operators of sites classified in accordance with the requirements of Subpart C as Low Priority may choose to conduct remediation sufficient to satisfy the remediation objectives referenced in Section 732.408 of this Part. Any owner or operator choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall so notify the Agency in writing prior to conducting such efforts. Upon completion of the remediation activities, owners or operators choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall submit a corrective action completion report to the Agency demonstrating compliance with the required levels. Upon approval of the corrective action completion report by the Agency in accordance with Subpart E, a No Further Remediation Letter shall be issued by the Agency.

BOARD NOTE: Owners or operators proceeding under subsection (b) or (c) of this Section are advised that they may not be entitled to full payment from the Fund. See Subpart F of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.401 Agency Authority to Initiate

Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to require or initiate corrective action activities in accordance with the remainder of this Subpart D.

Section 732.402 No Further Action Site

The owner or operator of a site that has been certified as a No Further Action site by a Licensed Professional Engineer or Licensed Professional Geologist and approved as such by the Agency shall have no additional remediation responsibilities beyond those performed pursuant to Subpart B or C of this Part. If the Agency fails to approve, reject or modify the site classification completion report within 120 days after receipt of the completion report pursuant to Section 732.309 or Section 732.312, the site classification completion report is rejected by operation of law.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.403 Low Priority Site

a) The owner or operator of a site that has been certified as a Low Priority site by a Licensed Professional Engineer or Licensed Professional Geologist and approved as such by the Agency shall develop a groundwater monitoring plan and perform groundwater monitoring in accordance with the requirements of this Section.

b) The owner or operator shall develop a groundwater monitoring plan designed to satisfy the following requirements at a minimum:

1) Groundwater monitoring shall be conducted for a period of three years following the Agency's approval of the site classification, unless subsection (b)(6) or subsection (i) of this Section applies;

2) Groundwater monitoring wells shall be placed at the property line or 200 feet from the UST system, whichever is closer. The wells shall be placed in a configuration designed to provide the greatest likelihood of detecting migration of groundwater contamination. In the event that a groundwater monitoring well cannot physically be installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection (b)(2), the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than the rule requires. However, once the election is made the owner or operator may not withdraw the election at a later time;

3) Groundwater monitoring wells shall satisfy the requirements at Section 732.307(j)(3) and (4) of this Part;

4) During the first year of groundwater monitoring, samples from each well shall be collected and analyzed on a quarterly basis. During the second year of groundwater monitoring, samples from each well shall be collected and analyzed during the second and fourth quarters. During the third and final year of groundwater monitoring, at a minimum, samples from each well shall be collected and analyzed in the fourth quarter;

5) To determine whether groundwater remediation objectives have been exceeded, samples for groundwater monitoring shall be collected and analyzed in accordance with the procedures set forth in Section 732.307(j)(5) of this Part for the applicable indicator contaminants determined pursuant to Section 732.310 of this Part;

6) The owner or operator may use groundwater monitoring data that has been collected up to 3 years prior to the site being certified as Low Priority, if the data meets the requirements of subsections (b)(2) through (b)(5) of this Section. This data may be used to satisfy all or part of the three year period of groundwater monitoring required under this Section.

c) Prior to the implementation of groundwater monitoring, except as provided under subsection (b)(6) of this Section, the owner or operator shall submit the groundwater monitoring plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a groundwater monitoring budget plan also shall be submitted to the Agency for review.

d) Groundwater analysis results obtained pursuant to subsection (b) of this Section shall be submitted to the Agency within 30 days after the end of each annual sampling period, except as provided under subsection (b)(6) of this Section. Groundwater analysis data being used pursuant to subsection (b)(6) shall be submitted to the Agency as part of a Low Priority groundwater monitoring plan or the Low Priority groundwater monitoring completion report.

1) The information to be collected shall include, but not be limited to, the information set forth in Section 732.307(j)(5) of this Part.

2) If at any time the groundwater analysis results indicate a confirmed exceedence of the applicable indicator contaminant groundwater remediation objectives as a result of the underground storage tank release of petroleum, the owner or operator shall notify the Agency of the exceedence within 30 days and provide supporting documentation of the nature and extent of the exceedence.

3) Indicator contaminant groundwater remediation objectives shall be determined in accordance with Section 732.311 of this Part.

e) Within 30 days after the completion of the Low Priority groundwater monitoring plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report in accordance with Section 732.409 of this Part. If there is no confirmed exceedence of applicable

indicator contaminant objectives during the three year groundwater monitoring period, the report shall contain a certification to that effect by a Licensed Professional Engineer or Licensed Professional Geologist.

f) The Agency shall review the groundwater monitoring completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter to the owner or operator in accordance with Subpart G of this Part upon approval of the report by the Agency. If the owner or operator elects to appeal an Agency action to disapprove, modify, or reject by operation of law a Low Priority groundwater monitoring completion report, the Agency shall indicate to the Board in conjunction with such appeal whether it intends to reclassify the site as High Priority.

g) If at any time groundwater analysis results indicate a confirmed exceedence of applicable indicator contaminant objectives, the Agency may reclassify the site as a High Priority site any time before the Agency's final approval of a Low Priority groundwater monitoring completion report. The Agency shall notify the owner or operator in writing if a site is reclassified. Notice of reclassification shall be by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. Any action by the Agency to reclassify the site as a High Priority site shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.

h) The owner or operator of a Low Priority site reclassified to High Priority pursuant to subsection (g) of this Section shall develop and submit for Agency approval a High Priority corrective action plan satisfying the requirements of Section 732.404 of this Part within 120 days after receiving the notice of reclassification. If the owner or operator intends to seek payment from the Fund, a corrective action budget plan also shall be submitted within 120 days after receiving the notice of reclassification.

i) As a result of the demonstration under Section 732.307(j)(6), the owner or operator of a site classified as Low Priority by a Licensed Professional Engineer or Licensed Professional Geologist shall prepare a report in accordance with Section 732.409 of this Part, that supports the issuance of a No Further Remediation Letter or reclassification of the site as a High Priority site. In the event the site is reclassified as a High Priority site, the owner or operator shall develop and submit for Agency approval a High Priority corrective action plan in accordance with subsection (h) of this Section.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.404 High Priority Site

a) The owner or operator of a site classified as High Priority shall develop a corrective action plan and perform corrective action in accordance with the requirements of this Section. The purpose of the corrective action plan shall be to remediate or eliminate each of the criteria set forth in subsection (b) of this Section that caused the site to be classified as High Priority.

b) The owner or operator shall develop a corrective action plan based on site conditions and designed to achieve the following as applicable to the site:

1) For sites that have submitted a site classification report under Section 732.309, provide that:

A) After complete performance of the corrective action plan, applicable indicator contaminants identified in the groundwater investigation are not present in groundwater, as a result of the underground storage tank release, in concentrations exceeding the remediation objectives referenced in Section 732.408 of this Part at the property boundary line or 200 feet from the UST system, whichever is less;

B) After complete performance of the corrective action plan, Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the UST system are not exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation;

C) After complete performance of the corrective action plan, remediation of contamination in natural or man-made exposure pathways as a result of the underground storage tank release has been conducted in accordance with 35 Ill. Adm. Code 742;

D) Threats to potable water supplies are remediated; and

E) Threats to bodies of surface water are remediated.

2) For sites that have submitted a site classification completion report under Section 732.312 of this Part, provide that, after complete performance of the corrective action plan, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 732.408 for any applicable exposure route not excluded from consideration under Section 732.312.

c) The owner or operator is not required to perform corrective action on an adjoining or off-site property to meet the requirements of this Section, even where complete performance of the corrective action plan under subsection (b)(1) or (b)(2) of this Section would otherwise require such off-site action, if the Agency determines that the owner or operator is unable to obtain access to the property despite the use of best efforts in accordance with the requirements of Section 732.411 of this Part.

d) In developing the corrective action plan, if the Licensed Professional Engineer or Licensed Professional Geologist selects soil or groundwater remediation, or both, to satisfy any of the criteria set forth in subsection (b) of this Section, remediation objectives shall be determined in accordance with Section 732.408 of this Part. Groundwater monitoring wells shall satisfy the requirements of Section 732.307(j)(3) and (4) of this Part.

e) Except where provided otherwise pursuant to Section 732.312 of this Part, in developing the corrective action plan, additional investigation activities beyond those required for the site evaluation and classification may be necessary to determine the full extent of soil or groundwater contamination and of threats to human health or the environment. Such activities may include, but are not limited to, additional soil borings with sampling and analysis or additional groundwater monitoring wells with sampling and analysis. Such activities as are technically necessary and consistent with generally accepted engineering practices may be performed without submitting a work plan or receiving prior approval from the Agency, and associated costs may be included in a High Priority corrective action budget plan. A description of these activities and the results shall be included as a part of the corrective action plan.

1) In addition to the potable water supply wells identified pursuant to Section 732.307(f) of this Part, the owner or operator must extend the water supply well survey if soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants extends beyond the site's property boundary, or, as part of a corrective action plan, the owner or operator proposes to leave in place soil or groundwater contamination exceeding the Tier 1 groundwater ingestion

exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants and contamination exceeding such objectives is modeled to migrate beyond the site's property boundary. At a minimum, the extended water supply well survey must identify the following:

A) All potable water supply wells located within 200 feet, and all community water supply wells located within 2,500 feet, of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

B) All regulated recharge areas and wellhead protection areas in which the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants is located.

2) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but is not limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely to be used, but that is not served by a public water supply or a well identified pursuant to Section 732.307(f)(1) of this Part or subsection (e)(1) of this Section. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).

f) The owner or operator shall submit the corrective action plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a corrective action budget plan also shall be submitted to the Agency for review.

g) Within 30 days after completing the performance of the High Priority corrective action plan, the owner or operator shall submit to the Agency a

corrective action completion report in accordance with Section 732.409 of this Part.

h) Within 120 days, the Agency shall review the corrective action completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter to the owner or operator in accordance with Subpart G of this Part upon approval by the Agency.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.405 Plan Submittal and Review

a) Prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Agency a Low Priority groundwater monitoring plan or a High Priority corrective action plan satisfying the minimum requirements for such activities as set forth in Section 732.403 or 732.404 of this Part, as applicable.

b) In addition to the plans required in subsections (a), (e), and (f) of this Section and prior to conducting any groundwater monitoring or corrective action activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a groundwater monitoring or corrective action budget plan with the corresponding groundwater monitoring or corrective action plan. Such budget plans shall include, but is not limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation and completion of the applicable activities, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan the Agency may require a comparison between the costs of the proposed method of remediation and other methods of remediation.

c) The Agency shall have the authority to review and approve, reject or require modification of any plan or budget plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

d) Notwithstanding subsections (a), (b), (e), and (f) of this Section and except as provided at Section 732.407 of this Part, an owner or operator may proceed to conduct Low Priority groundwater monitoring or High Priority corrective action activities in accordance with this Subpart D prior to the submittal or approval of an otherwise required groundwater monitoring

plan or budget plan or corrective action plan or budget plan. However, any such plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.

BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

e) If, following approval of any groundwater monitoring plan, corrective action plan or associated budget plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended groundwater monitoring plan, corrective action plan or associated budget plan for review by the Agency. The Agency shall review and approve, reject, or require modifications of the amended plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

f) If the Agency determines any approved corrective action plan has not achieved applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit a revised corrective action plan. If the owner or operator intends to seek payment from the Fund, the owner or operator must also submit a revised budget plan. Any action by the Agency to require a revised corrective action plan pursuant to this subsection (f) shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all groundwater monitoring plans and associated budget plans, and for all corrective action plans and associated budget plans, submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.406 Deferred Corrective Action; Priority List for Payment

a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the

underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met.

1) Approvals of budget plans shall be pursuant to Agency review in accordance with Subpart E of this Part.

2) The Agency shall monitor the availability of funds and shall provide notice of insufficient funds to owners or operators in accordance with Section 732.503(g) of this Part.

3) Owners and operators must submit elections to defer low priority groundwater monitoring or high priority corrective action activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

4) The Agency must review elections to defer low priority groundwater monitoring or high priority corrective action activities to determine whether the requirements of subsection (b) of this Section are met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.

   A) The Agency must mail notices of final action on an election to defer by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that such notice is mailed.

   B) Any action by the Agency to reject an election, or the rejection of an election by the Agency's failure to act, is subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

5) Upon approval of an election to defer low priority groundwater monitoring or high priority corrective action activities until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites

shall enter the priority list for payment and move up based solely on the date the Agency receives a complete written election of deferral, with the earliest dates having the highest priority.

6) As funds become available the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner's or operator's site. After such notification the owner or operator shall commence corrective action.

7) Authorization of payment of encumbered funds for deferred low priority groundwater monitoring or high priority corrective action activities shall be approved in accordance with the requirements of Subpart F of this Part.

8) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred site classification pursuant to Section 732.306 of this Part with both types of deferrals entering the list and moving up solely on the basis of the date the Agency receives written notice of the deferral.

b) An owner or operator who elects to defer low priority groundwater monitoring or high priority corrective action activities under subsection (a) of this Section shall submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:

1) The Agency has approved the owner's or operator's low priority groundwater monitoring or high priority corrective action budget plan;

2) The owner or operator has been determined eligible to seek payment from the Fund;

3) The early action requirements of Subpart B of this Part have been met;

4) Groundwater contamination does not exceed the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release, modeling in accordance with 35 Ill. Adm. Code 742 shows that groundwater contamination will not exceed such Tier 1 remediation objectives as a result of the release, and no

potable water supply wells are impacted as a result of the release; and

5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but is not limited to, the results of a water supply well survey conducted in accordance with Section 732.307(f) of this Part.

c) An owner or operator may, at any time, withdraw the election to defer low priority groundwater monitoring or high priority corrective action activities. The owner or operator must notify the Agency in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with corrective action in accordance with the requirements of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.407 Alternative Technologies

a) An owner or operator may choose to use an alternative technology for corrective action in response to a release of petroleum at a High Priority site. Corrective action plans proposing the use of alternative technologies shall be submitted to the Agency in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action plans contained in Section 732.404, the owner or operator who seeks approval of an alternative technology shall submit documentation along with the corrective action plan demonstrating that:

1) The proposed alternative technology has a substantial likelihood of successfully achieving compliance with all applicable regulations and all corrective action remediation objectives necessary to comply with the Act and regulations and to protect human health or the environment;

2) The proposed alternative technology will not adversely affect human health or the environment;

3) The owner or operator will obtain all Agency permits necessary to legally authorize use of the alternative technology;

4) The owner or operator will implement a program to monitor whether the requirements of subsection (a)(1) of this Section have been met; and

5) Within one year from the date of Agency approval the owner or operator will provide to the Agency monitoring program results establishing whether the proposed alternative technology will successfully achieve compliance with the requirements of subsection (a)(1) of this Section and any other applicable regulations. The Agency may require interim reports as necessary to track the progress of the alternative technology. The Agency will specify in the approval when those interim reports shall be submitted to the Agency.

b) An owner or operator intending to seek payment for costs associated with the use of an alternative technology shall submit a corresponding budget plan in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action budget plans at Section 732.404 of this Part, the budget plan must demonstrate that the cost of the alternative technology will not exceed the cost of conventional technology and is not substantially higher than other available alternative technologies. The budget plan must compare the costs of at least two other alternative technologies to the costs of the proposed alternative technology, if other alternative technologies are available and are technically feasible.

c) If an owner or operator has received approval of a corrective action plan and associated budget plan from the Agency prior to implementing the plan and the alternative technology fails to satisfy the requirements of subsection (a)(1) or (a)(2) of this Section, such failure shall not make the owner or operator ineligible to seek payment for the activities associated with the subsequent performance of a corrective action using conventional technology. However, in no case shall the total payment for the site exceed the statutory maximums. Owners or operators implementing alternative technologies without obtaining pre-approval shall be ineligible to seek payment for the subsequent performance of a corrective action using conventional technology.

d) The Agency may require remote monitoring of an alternative technology. The monitoring may include, but is not limited to, monitoring the alternative technology's operation and progress in achieving the applicable remediation objectives.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.408 Remediation Objectives

For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Section 732.300(b), 732.400(b) or 732.400(c) of this Part, the owner or operator shall propose remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742. Owners and operators seeking payment from the Fund that perform on-site corrective action in accordance with Tier 2 remediation objectives of 35 Ill. Adm. Code 742 must determine the following parameters on a site-specific basis:

Hydraulic conductivity (K)
Soil bulk density (ρ_b)
Soil particle density (ρ_s)
Moisture content (w)
Organic carbon content (f_{oc})

Board Note: Failure to use site-specific remediation objectives on-site and to utilize available groundwater ordinances as institutional controls may result in certain corrective action costs being ineligible for payment from the Fund. See Section 732.606(ddd) and (eee) of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports

a) Within 30 days after completing the performance of a Low Priority groundwater monitoring plan or High Priority corrective action plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report or a corrective action completion report.

1) The Low Priority groundwater monitoring completion report shall include, but is not limited to, a narrative describing the implementation and completion of all elements of the groundwater monitoring plan and the procedures used for collection and analysis of samples, analytical results in tabular form, actual analytical results, laboratory certification and any other information or documentation relied upon by the Licensed Professional Engineer or Licensed Professional Geologist in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site.

2) The High Priority corrective action completion report shall include, but is not limited to, a narrative and timetable describing the implementation and completion of all elements of the corrective action plan and the procedures used for the collection and analysis of samples, soil boring logs, actual analytical results, laboratory certification, site maps, well logs, and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site. Documentation of any water supply well survey conducted pursuant to Section 732.404(e) of this Part must include, but is not limited to, the following:

A) One or more maps, to an appropriate scale, showing the following:

i) The location of the community water supply wells and other potable water supply wells identified pursuant to Section 732.404(e) of this Part, and the setback zone for each well;

ii) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to Section 732.404(e) of this Part;

iii) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

iv) The modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

B) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to Section 732.404(e) of this Part;

C) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to Section 732.404(e) of this Part, the name and title of each

person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

D) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of Section 732.404(e) of this Part and that the documentation submitted pursuant to this Section includes the information obtained as a result of the survey.

3) A High Priority corrective action completion report shall demonstrate the following:

A) For sites submitting a site classification report under Section 732.309 of this Part:

i) Applicable indicator contaminant groundwater objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;

ii) Class III resource groundwater quality standards for Class III special use resource groundwater within 200 feet of the UST system are not exceeded as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;

iii) The release of petroleum does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways, of petroleum in concentration sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

iv) The release of petroleum does not threaten any surface water body; and

v) The release of petroleum does not threaten any potable water supply.

B) For sites submitting a site classification completion report under Section 732.312 of this Part, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 732.408 of this Part for any applicable exposure route not excluded from further consideration under Section 732.312 of this Part.

b) The applicable report shall be accompanied by a certification from a Licensed Professional Engineer, in accordance with subsection (a) of this Section, that the information presented in the applicable report is accurate and complete, that groundwater monitoring or corrective action have been completed in accordance with the requirements of the Act and this Subpart D, and that no further remediation is required at the site.

c) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.410 "No Further Remediation" letter (Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997)

Section 732.411 Off-site Access

a) An owner or operator seeking to comply with the best efforts requirements of Section 732.404(c) of this Part must demonstrate compliance with the requirements of this Section.

b) In conducting best efforts to obtain off-site access, an owner or operator must, at a minimum, send a letter by certified mail to the owner of any off-site property to which access is required, stating:

1) Citation to Title XVI of the Act stating the legal responsibility of the owner or operator to remediate the contamination caused by the release;

2) That, if the property owner denies access to the owner or operator, the owner or operator may seek to gain entry by a court order pursuant to Section 22.2c of the Act;

3) That, in performing the requested investigation, the owner or operator will work so as to minimize any disruption on the property, will maintain, or its consultant will maintain, appropriate insurance and will repair any damage caused by the investigation;

4) If contamination results from a release by the owner or operator, the owner or operator will conduct all associated remediation at its own expense;

5) That threats to human health and the environment and diminished property value may result from failure to remediate contamination from the release; and

6) A reasonable time to respond to the letter, not less than 30 days.

c) An owner or operator, in demonstrating that the requirements of this Section have been met, must provide to the Agency, as part of the corrective action completion report, the following documentation:

1) A sworn affidavit, signed by the owner or operator identifying the specific off-site property involved by address, the measures proposed in the corrective action plan that require off-site access, and the efforts taken to obtain access, and stating that the owner or operator has been unable to obtain access despite the use of best efforts; and

2) A copy of the certified letter sent to the owner of the off-site property pursuant to subsection (b) of this Section.

d) In determining whether the efforts an owner or operator has made constitute best efforts to obtain access, the Agency must consider the following factors:

1) The physical and chemical characteristics, including toxicity, persistence and potential for migration, of applicable indicator contaminants at the property boundary line;

2) The hydrogeological characteristics of the site and the surrounding area, including the attenuation capacity and saturation limits of the soil at the property boundary line;

3) The nature and extent of known contamination at the site, including the levels of applicable indicator contaminants at the property boundary line;

4) The potential effects of residual contamination on nearby surface water and groundwater;

5) The proximity, quality and current and future uses of nearby surface water and groundwater, including regulated recharge areas, wellhead protection areas, and setback zones of potable water supply wells;

6) Any known or suspected natural or man-made migration pathways existing in or near the suspected area of off-site contamination;

7) The nature and use of the part of the off-site property that is the suspected area of contamination;

8) Any existing on-site engineered barriers or institutional controls that might have an impact on the area of suspected off-site contamination, and the nature and extent of such impact; and

9) Any other applicable information assembled in compliance with this Part.

e) The Agency shall issue a No Further Remediation Letter to an owner or operator subject to this Section and otherwise entitled to such issuance only if the owner or operator has, in accordance with this Section, either completed any requisite off-site corrective action or demonstrated to the Agency's satisfaction an inability to obtain off-site access despite best efforts.

f) The owner or operator is not relieved of responsibility to clean up a release that has migrated beyond the property boundary even where off-site access is denied.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART E: SELECTION AND REVIEW PROCEDURES FOR PLANS AND REPORTS

Section 732.500 General

The Agency shall have the authority to review any plan, budget plan, or report, including any amended plan, budget plan, or report, submitted pursuant to this Part. All such reviews shall be subject to the procedures set forth in the Act and this Subpart E.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.501 Submittal of Plans or Reports (Repealed)

(Source: Repealed at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.502 Completeness Review (Repealed)

(Source: Repealed at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.503 Review of Plans, Budget Plans, or Reports

a) The Agency may review any or all technical or financial information, or both, relied upon by the owner or operator or the Licensed Professional Engineer or Licensed Professional Geologist in developing any plan, budget plan, or report selected for review. The Agency may also review any other plans, budget plans, or reports submitted in conjunction with the site.

b) The Agency shall have the authority to approve, reject or require modification of any plan, budget plan, or report it reviews. The Agency shall notify the owner or operator in writing of its final action on any such plan, budget plan, or report, except in the case of 20 day, 45 day or free product removal reports, in which case no notification is necessary. Except as provided in subsections (c) and (d) of this Section, if the Agency fails to notify the owner or operator of its final action on a plan, budget plan, or report within 120 days after the receipt of a plan, budget plan, or report, the owner or operator may deem the plan, budget plan, or report rejected by operation of law. If the Agency rejects a plan, budget plan, or report or requires modifications, the written notification shall contain the following information, as applicable:

    1) An explanation of the specific type of information, if any, that the Agency needs to complete the review;

    2) An explanation of the Sections of the Act or regulations that may be violated if the plan, budget plan, or report is approved; and

    3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan, budget plan, or report is approved.

c) For High Priority corrective action plans submitted by owners or operators not seeking payment from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrective action completion report required pursuant to Section 732.409 of this Part.

d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan, budget plan, or report by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 60 days.

e) The Agency shall mail notices of final action on plans, budget plans, or reports by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed.

f) Any action by the Agency to reject or require modification, or rejection by failure to act, of a plan, budget plan, or report shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

g) In accordance with Sections 732.306 and 732.406 of this Part, upon the approval of any budget plan by the Agency, the Agency shall include as part of the final notice to the owner or operator a notice of insufficient funds if the Fund does not contain sufficient funds to provide payment of the total costs approved in the budget plan.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.504 Selection of Plans or Reports for Full Review (Repealed)

(Source: Repealed at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.505 Standards for Review of Plans or Reports

a) A full technical review shall consist of a detailed review of the steps proposed or completed to accomplish the goals of the plan and to achieve compliance with the Act and regulations. Items to be reviewed, if applicable, shall include, but not be limited to, number and placement of wells and borings, number and types of samples and analysis, results of sample analysis, and protocols to be followed in making determinations.

The overall goal of the technical review for plans shall be to determine if the plan is sufficient to satisfy the requirements of the Act and regulations and has been prepared in accordance with generally accepted engineering practices. The overall goal of the technical review for reports shall be to determine if the plan has been fully implemented in accordance with generally accepted engineering practices, if the conclusions are consistent with the information obtained while implementing the plan, and if the requirements of the Act and regulations have been satisfied.

b) If the Licensed Professional Engineer certifies that there is no evidence that, through natural or manmade pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces, the Licensed Professional Engineer's certification to that effect shall be presumed correct unless the Agency's review reveals objective evidence to the contrary.

c) A full financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed shall include, but not be limited to, costs associated with any materials, activities or services that are included in the budget plan. The overall goal of the financial review shall be to assure that costs associated with materials, activities and services shall be reasonable, shall be consistent with the associated technical plan, shall be incurred in the performance of corrective action activities, and shall not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations.

SUBPART F: PAYMENT OR REIMBURSEMENT

Section 732.600 General

The Agency shall have the authority to review any application for payment or reimbursement and to authorize payment or reimbursement from the Fund or such other funds as the legislature directs for corrective action activities conducted pursuant to the Act and this Part 732. For purposes of this Part and unless otherwise provided, the use of the word "payment" shall include reimbursement. The submittal and review of applications for payment and the authorization for payment shall be in accordance with the procedures set forth in the Act and this Subpart F.

Section 732.601 Applications for Payment

a) An owner or operator seeking payment from the Fund shall submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The owner or operator may submit an application for partial payment or final payment. Costs for which payment is sought must be approved in a budget plan, provided, however, that no budget plan shall be required for early action activities conducted pursuant to Subpart B of this Part other than free product removal activities conducted more than 45 days after confirmation of the presence of free product.

b) A complete application for payment shall consist of the following elements:

1) A certification from a Licensed Professional Engineer or a Licensed Professional Geologist acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or, for early action activities, in accordance with Subpart B of this Part;

2) A statement of the amounts approved in the corresponding budget plan and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought have been expended in conformance with the elements of a budget plan approved by the Agency;

3) A copy of the OSFM or Agency eligibility and deductibility determination;

4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;

5) A federal taxpayer identification number and legal status disclosure certification;

6) A private insurance coverage form;

7) A minority/women's business form;

8) Designation of the address to which payment and notice of final action on the application for payment are to be sent;

9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and

10) Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.

c) The address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change in address.

d) Applications for payment and change of address forms shall be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

e) Applications for partial or final payment may be submitted no more frequently than once every 90 days.

f) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, other than costs associated with free product removal activities conducted more than 45 days after confirmation of the presence of free product, in no case shall the Agency review an application for payment unless there is an approved budget plan on file corresponding to the application for payment.

g) In no case shall the Agency authorize payment to an owner or operator in amounts greater than the amounts approved by the Agency in a corresponding budget plan. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart E of this Part using amended budget plans as required under this Part.

h) Applications for payment of costs associated with site classification may not be submitted prior to approval or modification of the site classification completion report.

i) Applications for payment of costs associated with site classification, low priority groundwater monitoring, or high priority corrective action that was deferred pursuant to Section 732.306 or 732.406 of this Part may not be submitted prior to approval or modification of the corresponding site classification completion report, low priority groundwater monitoring completion report, or high priority corrective action completion report.

j) All applications for payment of corrective action costs must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part. For releases for which the Agency issued a No Further Remediation Letter prior to March

1, 2006, all applications for payment must be submitted no later than March 1, 2007.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.602 Review of Applications for Payment

a) At a minimum, the Agency must review each application for payment submitted pursuant to this Part to determine the following:

1) whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part;

2) for costs incurred pursuant to Subpart B of this Part, other than free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought are reasonable, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part;

3) for costs incurred pursuant to Subpart C of this Part and free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought exceed the amounts approved in the corresponding budget plan, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part and a plan approved by the Agency; and

4) Whether the amounts sought are eligible for payment.

b) When conducting a review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in subsection (c) of this Section.

c) The Agency's review may include review of any or all elements and supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The review also may include the review of any plans, budget plans, or reports previously submitted for the site to ensure that the application for payment is consistent with work proposed and actually performed in conjunction with the site.

d) Following a review, the Agency shall have the authority to approve, deny or require modification of applications for payment or portions thereof. The Agency shall notify the owner or operator in writing of its final action on any such application for payment. Except as provided in subsection (e) of this Section, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification shall contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete the review;

2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and

3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.

e) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 30 days.

f) The Agency shall mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. The Agency shall mail notices of final action on applications for payment, and direct the Comptroller to mail payments to the owner or operator, at the address designated for receipt of payment in the application for payment or on a change of address form, provided by the Agency, submitted subsequent to submittal of the application for payment.

g) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.603 Authorization for Payment; Priority List

a) Within 60 days after notification to an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency shall forward to the Office of the State Comptroller in accordance with subsection (d) or (e) of this Section a voucher in the amount approved. If the owner or operator has filed an appeal with the Board of the Agency's final decision on an application for payment, the Agency shall have 60 days after the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal. Notwithstanding the time limits imposed by this Section, the Agency shall not forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.

b) The following rules shall apply regarding deductibles:

1) Any deductible, as determined by the OSFM or the Agency, shall be subtracted from any amount approved for payment by the Agency or by operation of law or ordered by the Board or courts;

2) Only one deductible shall apply per occurrence;

3) If multiple incident numbers are issued for a single site in the same calendar year, only one deductible shall apply for those incidents, even if the incidents relate to more than one occurrence; and

4) Where more than one deductible determination is made, the higher deductible shall apply.

c) The Agency shall instruct the Office of the State Comptroller to issue payment to the owner or operator at the address designated in accordance with Section 732.601(b)(8) or (c) of this Part. In no case shall the Agency authorize the Office of the State Comptroller to issue payment to an agent, designee, or entity that has conducted corrective action activities for the owner or operator.

d) For owners or operators who have deferred site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, payment shall be authorized from funds encumbered pursuant to Section 732.306(a)(6) or 732.406(a)(6) of this Part upon approval of the application for payment by the Agency or by operation of law.

e) For owners or operators not electing to defer site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, the Agency shall form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section.

1) All such applications for payment shall be assigned a date that is the date upon which the complete application for partial or final payment was received by the Agency. This date shall determine the owner's or operator's priority for payment in accordance with subsection (e)(2) of this Section, with the earliest dates receiving the highest priority.

2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment shall be assigned priority in accordance with subsection (e)(1) of this Section. The assigned date shall be the only factor determining the priority for payment for those applications approved for payment.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.604 Limitations on Total Payments

a) Limitations per occurrence:

1) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of corrective action incurred by the owner or operator in an amount in excess of $1,000,000 per occurrence.

2) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of indemnification of the owner or operator in an amount in excess of $1,000,000 per occurrence.

b) Aggregate limitations:

1) Notwithstanding any other provision of this Part, the Agency must not approve payment to an owner or operator from the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by the owner or operator in Illinois:

Amount	Number of Tanks

$1,000,000	fewer than 101
$2,000,000	101 or more

2) Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section will not be eligible for payment in subsequent years.

c) *For purposes of* subsection (b) of this Section, *requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator* [415 ILCS 5/57.8(d)(2)].

d) *For purposes of* subsection (b) of this Section, *owner or operator includes*;

1) *any subsidiary, parent, or joint stock company of the owner or operator*; *and*

2) *any company owned by any parent, subsidiary, or joint stock company of the owner or operator* [415 ILCS 5/57.8(d)(3)].

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.605 Eligible Corrective Action Costs

a) Types of costs that may be eligible for payment from the Fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include but are not limited to reasonable costs for:

1) Early action activities conducted pursuant to Subpart B of this Part;

2) Engineer or geologist oversight services;

3) Remedial investigation and design;

4) Laboratory services necessary to determine site classification and whether the established remediation objectives have been met;

5) The installation and operation of groundwater investigation and groundwater monitoring wells;

6) The removal, treatment, transportation, and disposal of soil contaminated by petroleum at levels in excess of the established remediation objectives;

7) The removal, treatment, transportation, and disposal of water contaminated by petroleum at levels in excess of the established remediation objectives;

8) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established remediation objectives;

9) Groundwater corrective action systems;

10) Alternative technology, including but not limited to feasibility studies approved by the Agency;

11) Recovery of free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water;

12) The removal and disposal of any UST if a release of petroleum from the UST was identified and IEMA was notified prior to its removal, with the exception of any UST deemed ineligible by the OSFM;

13) Costs incurred as a result of a release of petroleum because of vandalism, theft or fraudulent activity by a party other than an owner, operator or agent of an owner or operator;

14) Engineer or geologist costs associated with seeking payment from the Fund including, but not limited to, completion of an application for partial or final payment;

15) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSFM or the Agency;

16) Costs for destruction and replacement of concrete, asphalt, or paving to the extent necessary to conduct corrective action if the concrete, asphalt, or paving was installed prior to the initiation of corrective action activities, the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer, and the destruction and

replacement and its costs are approved by the Agency in writing prior to the destruction and replacement. The costs for destruction and replacement of concrete, asphalt, and paving must not be paid more than once. Costs associated with the replacement of concrete, asphalt, or paving must not be paid in excess of the cost to install, in the same area and to the same depth, the same material that was destroyed (e.g., replacing four inches of concrete with four inches of concrete);

17) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer and such activity and its costs are approved by the Agency in writing prior to the destruction or dismantling and re-assembly. Such costs must not be paid in excess of a total $10,000 per occurrence. For purposes of this subsection (a)(17), destruction, dismantling or reassembly of above grade structures does not include costs associated with replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies;

18) Preparation of reports submitted pursuant to Section 732.202(h)(3) of this Part, free product removal plans and associated budget plans, free product removal reports, site classification plans (including physical soil classification and groundwater investigation plans) and associated budget plans, site classification reports, groundwater monitoring plans and associated budget plans, groundwater monitoring completion reports, High Priority corrective action plans and associated budget plans, and High Priority corrective action completion reports;

19) Costs associated with the removal or abandonment of a potable water supply well, and replacement of the well or connection to a public water supply, whichever is less, if a Licensed Professional Engineer or Licensed Professional Geologist certifies that such activity is necessary to the performance of corrective action and that the property served by the well cannot receive an adequate supply of potable water from an existing source other than the removed or abandoned well, and the Agency approves such activity in writing. If the well being removed or abandoned is a public water supply well, the Licensed Professional Engineer or Licensed Professional Geologist is required to certify only that the removal or abandonment of the well is necessary to the performance of corrective action; and

20) Costs associated with the repair or replacement of potable water supply lines damaged to the point of requiring repair or replacement as a direct result of the release, if such activity is certified by a Licensed Professional Engineer or Licensed Professional Geologist as necessary for the protection of the potable water supply and approved by the Agency in writing.

b) An owner or operator may submit a budget plan or application for partial or final payment that includes an itemized accounting of costs associated with activities, materials or services not identified in subsection (a) of this Section if the owner or operator submits detailed information demonstrating that the activities, materials or services not identified in subsection (a) of this Section are essential to the completion of the minimum corrective action requirements of the Act and this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.606 Ineligible Corrective Action Costs

Costs ineligible for payment from the Fund include but are not limited to:

a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 732.202(f), and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 732.202(f) of this Part;

b) Costs or losses resulting from business interruption;

c) Costs incurred as a result of vandalism, theft or fraudulent activity by the owner or operator or agent of an owner or operator including the creation of spills, leaks or releases;

d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies, including but not limited to those structures destroyed or damaged during corrective action activities;

e) *Costs of corrective action incurred by an owner or operator prior to July 28, 1989* [415 ILCS 5/57.8(j)];

f) Costs associated with the procurement of a generator identification number;

g) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;

h) Purchase costs of non-expendable materials, supplies, equipment or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment or tools;

i) Costs associated with activities that violate any provision of the Act or Board, OSFM or Agency regulations;

j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;

k) Costs for removal, disposal or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the OSFM before the owner or operator provided notice to IEMA of a release of petroleum;

l) Costs associated with the installation of new USTs, the repair of existing USTs and removal and disposal of USTs determined to be ineligible by the Office of the State Fire Marshal;

m) Costs exceeding those contained in a budget plan or amended budget plan approved by the Agency;

n) Costs of corrective action incurred before providing notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;

o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;

p) Costs associated with improperly installed sampling or monitoring wells;

q) Costs associated with improperly collected, transported, or analyzed laboratory samples;

r) Costs associated with the analysis of laboratory samples not approved by the Agency;

s) Costs for any corrective activities, services or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;

t) Interest or finance costs charged as direct costs;

u) Insurance costs charged as direct costs;

v) Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs;

w) Costs associated with the compaction and density testing of backfill material;

x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;

y) Costs related to activities, materials or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act [415 ILCS 5] and regulations;

z) Costs incurred after completion of early action activities in accordance with Subpart B by owners or operators choosing, pursuant to Section 732.300(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;

aa) Costs incurred after completion of site classification activities in accordance with Subpart C by owners or operators choosing, pursuant to Section 732.400(b) or (c) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;

bb) Costs of alternative technology that exceed the costs of conventional technology;

cc) Costs for activities and related services or materials that are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services;

dd) Costs to prepare site classification plans and associated budget plans under Section 732.305 of this Part, to perform site classification under Section 732.307 of this Part, or to prepare site classification completion reports under Section 732.309 of this Part, for sites where owners or operators have elected to classify under Section 732.312 of this Part;

ee) Costs to prepare site classification plans and associated budget plans under Section 732.312 of this Part, to perform site classification under Section 732.312 of this Part, or to prepare site classification completion reports under Section 732.312 of this Part, for sites where owners or operators have performed classification activities under Sections 732.305, 732.307, or 732.309 of this Part;

ff) Costs requested that are based on mathematical errors;

gg) Costs that lack supporting documentation;

hh) Costs proposed as part of a budget plan that are unreasonable;

ii) Costs incurred during early action that are unreasonable;

jj) Costs incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release;

kk) Costs incurred after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. This subsection (kk) does not apply to the following:

1) Costs incurred for MTBE remediation pursuant to Section 732.310(i)(2) of this Part;

2) Monitoring well abandonment costs;

3) County recorder or registrar of titles fees for recording the No Further Remediation Letter;

4) Costs associated with seeking payment from the Fund; and

5) Costs associated with remediation to Tier 1 remediation objectives on-site if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives in response to the release;

ll) Handling charges for subcontractor costs that have been billed directly to the owner or operator;

mm) Handling charges for subcontractor costs when the contractor has not submitted proof of payment of the subcontractor costs;

nn) Costs associated with standby and demurrage;

oo) Costs associated with a corrective action plan incurred after the Agency notifies the owner or operator, pursuant to Section 732.405(f) of this Part, that a revised corrective action plan is required, provided, however, that costs associated with any subsequently approved corrective action plan will be eligible for payment if they meet the requirements of this Part;

pp) Costs incurred after the effective date of an owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734;

qq) Costs associated with the preparation of free product removal reports not submitted in accordance with the schedule established in Section 732.203(a)(5) of this Part;

rr) Costs submitted more than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;

ss) Costs for the destruction and replacement of concrete, asphalt, or paving, except as otherwise provided in Section 732.605(a)(16) of this Part;

tt) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, utilities, or other items during corrective action activities, except as otherwise provided in Section 732.605(a)(16) or (17) of this Part;

uu) Costs associated with oversight by an owner or operator;

vv) Handling charges charged by persons other than the owner's or operator's primary contractor;

ww) Costs associated with the installation of concrete, asphalt, or paving as an engineered barrier to the extent they exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. This subsection does not apply if the concrete, asphalt, or paving being used as an engineered barrier was replaced pursuant to Section 732.605(a)(16) of this Part;

xx) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release, unless approved by the Agency in writing prior to the treatment or disposal;

yy) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply, except as otherwise provided in Section 732.605(a)(19) of this Part;

zz) Costs associated with the repair or replacement of potable water supply lines, except as otherwise provided in Section 732.605(a)(20) of this Part;

aaa) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines, except as otherwise provided in Sections 732.605(a)(19) or (20) of this Part;

bbb) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance that are approved in a budget plan;

ccc) Costs that exceed the maximum payment amounts set forth in Subpart H of this Part;

ddd) Costs associated with on-site corrective action to achieve remediation objectives that are more stringent than the Tier 2 remediation objectives developed in accordance with 35 Ill. Adm. Code 742. This subsection (ddd) does not apply if Karst geology prevents the development of Tier 2 remediation objectives for on-site remediation, or if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives on-site in response to the release;

eee) Costs associated with groundwater remediation if a groundwater ordinance already approved by the Agency for use as an institutional control in accordance with 35 Ill. Adm. Code 742 can be used as an institutional control for the release being remediated.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.607 Payment for Handling Charges

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
$0 - $5,000	12%
$5,001 - $15,000	$600 + 10% of amt. over $5,000
$15,001 - $50,000	$1,600 + 8% of amt. over $15,000
$50,001 - $100,000	$4,400 + 5% of amt. over $50,000
$100,001 - $1,000,000	$6,900 + 2% of amt. over $100,000

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.608 Apportionment of Costs

a) The Agency may apportion payment of costs if:

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

2) *The owner or operator failed to justify all costs attributable to each underground storage tank at the site.* [415 ILCS 5/57.8(m)]

b) The Agency will determine, based on volume or number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.609 Subrogation of Rights

Payment of any amount from the fund for corrective action or indemnification shall be subject to the State acquiring by subrogation the rights of any owner, operator, or other person to recover the costs of corrective action or indemnification for which the fund has compensated such owner, operator, or person from the person responsible or liable for the release [415 ILCS 5/57.8(h)].

(Source: Amended at 26 Ill. Reg. 7119, effective April 29, 2002)

Section 732.610 Indemnification

a) An owner or operator seeking indemnification from the Fund for payment of costs incurred as a result of a release of petroleum from an underground storage tank must submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

1) A complete application for payment must contain the following:

A) A certified statement by the owner or operator of the amount sought for payment;

B) Proof of the legally enforceable judgment, final order, or determination against the owner or operator, or the legally enforceable settlement entered into by the owner or operator, for which indemnification is sought. The proof must include, but is not limited to, the following:

i) A copy of the judgment certified by the court clerk as a true and correct copy, a copy of the final order or determination certified by the issuing agency of State government or subdivision thereof as a true and correct copy, or a copy of the settlement certified by the owner or operator as a true and correct copy; and

ii) Documentation demonstrating that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from the UST for which the release was reported, and that the UST is owned or operated by the owner or operator;

C) A copy of the OSFM or Agency eligibility and deductibility determination;

D) Proof that approval of the indemnification requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;

E) A federal taxpayer identification number and legal status disclosure certification;

F) A private insurance coverage form; and

G) Designation of the address to which payment and notice of final action on the request for indemnification are to be sent to the owner or operator.

2) The owner's or operator's address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change of address.

3) Applications for payment must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

b) The Agency shall review applications for payment in accordance with this Subpart F. In addition, the Agency must review each application for payment to determine the following:

1) Whether the application contains all of the information and supporting documentation required by subsection (a) of this Section;

2) Whether there is sufficient documentation of a legally enforceable judgment entered against the owner or operator in a court of law, final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or settlement entered into by the owner or operator;

3) Whether there is sufficient documentation that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator; and

4) Whether the amounts sought for indemnification are eligible for payment.

c) If the application for payment of the costs of indemnification is deemed complete and otherwise satisfies all applicable requirements of this Subpart F, the Agency shall forward the request for indemnification to the Office of the Attorney General for review and approval in accordance with Section 57.8(c) of the Act. The owner or operator's request for indemnification shall not be placed on the priority list for payment until the Agency has received the written approval of the Attorney General. The approved application for payment shall then enter the priority list

established at Section 732.603(e)(1) of this Part based on the date the complete application was received by the Agency in accordance with Section 57.8(c) of the Act.

d) Costs ineligible for indemnification from the Fund include, but are not limited to:

1) Amounts an owner or operator is not legally obligated to pay pursuant to a judgment entered against the owner or operator in a court of law, a final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or any settlement entered into by the owner or operator;

2) Amounts of a judgment, final order, determination, or settlement that do not arise out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator;

3) Amounts incurred prior to July 28, 1989;

4) Amounts incurred prior to notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;

5) Amounts arising out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank for which the owner or operator is not eligible to access the Fund;

6) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;

7) Amounts associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;

8) Amounts associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;

9) Amounts associated with a release that has not been reported to IEMA or is not required to be reported to IEMA;

10) Amounts incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release; and

11) Amounts incurred after the effective date of the owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.611 Costs Covered by Insurance, Agreement or Court Order

Costs of corrective action or indemnification incurred by an owner or operator which have been paid to an owner or operator under a policy of insurance, another written agreement, or a court order are not eligible for payment from the Fund. *An owner or operator who receives payment under a policy of insurance, another written agreement, or a court order shall reimburse the State to the extent such payment covers costs for which payment was received from the Fund.* (Section 57.8(e) of the Act)

Section 732.612 Determination and Collection of Excess Payments

a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section.

1) Upon identifying an excess payment, the Agency shall notify the owner or operator receiving the excess payment by certified or registered mail, return receipt requested.

2) The notification letter shall state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.

3) The Agency's determination of an excess payment shall be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

b) An excess payment from the Fund includes, but is not limited to:

1) Payment for a non-corrective action cost;

2) Payment in excess of the limitations on payments set forth in Sections 732.604 and 732.607 and Subpart H of this Part;

3) Payment received through fraudulent means;

4) Payment calculated on the basis of an arithmetic error;

5) Payment calculated by the Agency in reliance on incorrect information; or

6) Payment of costs that are not eligible for payment.

c) Excess payments may be collected using any of the following procedures:

1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section or pursuant to a Board order affirming such determination upon appeal, the Agency may attempt to negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section shall prohibit the Agency from exercising at any time its options at subsection (c)(2) or (c)(3) of this Section or any other collection methods available to the Agency by law.

2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.

3) The Agency may deem an excess payment amount to be a claim or debt owed the Agency, and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.5 of the "State Comptroller Act." [15 ILCS 405/10.05].

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.614 Audits and Access to Records; Records Retention

a) Owners or operators that submit a report, plan, budget, application for payment, or any other data or document under this Part must maintain all

books, records, documents, and other evidence directly pertinent to the report, plan, budget, application for payment, data, or document, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents, and other evidence must be maintained in accordance with accepted business practices and appropriate accounting procedures and practices.

b) The Agency or any of its duly authorized representatives must have access to the books, records, documents, and other evidence set forth in subsection (a) of this Section during normal business hours for the purpose of inspection, audit, and copying. Owners or operators must provide proper facilities for such access and inspection.

c) Owners, or operators must maintain the books, records, documents, and other evidence set forth in subsection (a) of this Section and make them available to the Agency or its authorized representative until the latest of the following:

1) The expiration of 4 years after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;

2) For books, records, documents, or other evidence relating to an appeal, litigation, or other dispute or claim, the expiration of 3 years after the date of the final disposition of the appeal, litigation, or other dispute or claim; or

3) The expiration of any other applicable record retention period.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

Section 732.700 General

Subpart G provides the procedures for issuance of No Further Remediation Letters under Title XVI and this Part. Subpart G also sets forth the recording requirements and the circumstances under which the letter may be voidable.

(Source: Added at 21 Ill. Reg. 3617, effective July 1, 1997)

Section 732.701 Issuance of a No Further Remediation Letter

a) Upon approval by the Agency of a report submitted pursuant to Section 732.202(h)(3) of this Part, a No Further Action site classification report, a Low Priority groundwater monitoring completion report, or a High Priority corrective action completion report, the Agency shall issue to the owner or operator a No Further Remediation Letter. The No Further Remediation Letter shall have the legal effect prescribed in Section 57.10 of the Act. The No Further Remediation Letter shall be denied if the Agency rejects or requires modification of the applicable report.

b) The Agency shall have 120 days after the date of receipt of a complete report to issue a No Further Remediation Letter and may include the No Further Remediation Letter as part of the notification of approval of the applicable report in accordance with Subpart E of this Part. If the Agency fails to send the No Further Remediation Letter within 120 days, it shall be deemed denied by operation of law.

c) The notice of denial of a No Further Remediation Letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If any request for a No Further Remediation Letter is denied by operation of law, in lieu of an immediate repeal to the Board the owner or operator may either resubmit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

d) The Agency shall mail the No Further Remediation Letter by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the postmarked date that the letter is mailed.

e) The Agency at any time may correct errors in No Further Remediation Letters that arise from oversight, omission or clerical mistake. Upon correction of the No Further Remediation Letter, the Agency shall mail the corrected letter to the owner or operator as set forth in subsection (d) of this Section. The corrected letter shall be perfected by recording in accordance with the requirements of Section 732.703 of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.702 Contents of a No Further Remediation Letter

A No Further Remediation Letter issued pursuant to this Part shall include all of the following:

a) An acknowledgment that the requirements of the applicable report were satisfied;

b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for purposes of Section 732.703(d) of this Part, other means sufficient to identify site location with particularity;

c) A statement that the remediation objectives were determined in accordance with 35 Ill. Adm. Code 742, and the identification of any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;

d) A statement that the Agency's issuance of the No Further Remediation Letter signifies that, except for *off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property*:

   1) *All corrective action requirements* under Title XVI of the Act and this Part *applicable to the occurrence have been complied with;*

   2) *All corrective action concerning the remediation of the occurrence has been completed; and*

   3) *No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment* [415 ILCS 5/57.10(c)];

e) The prohibition under Section 732.703(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;

f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;

g) The recording obligations pursuant to Section 732.703 of this Part;

h) The opportunity to request a change in the recorded land use pursuant to Section 732.703(e) of this Part;

i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and

j) Any other provisions agreed to by the Agency and the owner or operator.

(Source: Amended at 31 Ill. Reg. 16132, effective November 21, 2007)

Section 732.703 Duty to Record a No Further Remediation Letter

a) Except as provided in subsections (c) and (d) of this Section, an owner or operator receiving a No Further Remediation Letter from the Agency pursuant to this Subpart G shall submit the letter, with a copy of any applicable institutional controls (as set forth in 35 Ill. Adm. Code 742, Subpart J) proposed as part of a corrective action completion report, to the office of the recorder or the registrar of titles of the county in which the site is located within 45 days after receipt of the letter. The letter and any attachments shall be filed in accordance with Illinois law so that they form a permanent part of the chain of title for the site. Upon the lapse of the 45-day period for recording, pursuant to Section 732.704(a)(5) of this Part, the Agency may void an unrecorded No Further Remediation Letter for failure to record it in a timely manner.

b) Except as provided in subsections (c) and (d) of this Section, a No Further Remediation Letter shall be perfected upon the date of the official recording of such letter. The owner or operator shall obtain and submit to the Agency, within 30 days after the official recording date, a certified or otherwise accurate and official copy of the letter and any attachments as recorded. An unperfected No Further Remediation Letter is effective only as between the Agency and the owner or operator.

c) For sites located in a highway authority right-of-way, the following requirements shall apply:

1) In order for the No Further Remediation Letter to be perfected, the highway authority with jurisdiction over the right-of-way must enter into a Memorandum of Agreement (MOA) with the Agency. The MOA must include, but is not limited to:

A) The name of the site, if any, and any highway authority or Agency identifiers (e.g., incident number, Illinois inventory identification number);

B) The address of the site (or other description sufficient to identify the location of the site with certainty);

C) A copy of the No Further Remediation Letter for each site subject to the MOA;

D) Procedures for tracking sites subject to the MOA so that all highway authority offices and personnel whose responsibilities (e.g., land acquisition, maintenance, construction, utility permits) may affect land use limitations will have notice of any environmental concerns and land use limitations applicable to a site;

E) Provisions addressing future conveyances (including title or any lesser form of interest) or jurisdictional transfers of the site to any other agency, private person or entity and the steps that will be taken to ensure the long-term integrity of any land use limitations including, but not limited to, the following:

i) Upon creation of a deed, the recording of the No Further Remediation Letter and any other land use limitations requiring recording under 35 Ill. Adm. Code 742, with copies of the recorded instruments sent to the Agency within 30 days after recording;

ii) Any other arrangements necessary to ensure that property that is conveyed or transferred remains subject to any land use limitations approved and implemented as part of the corrective action plan and the No Further Remediation Letter; and

iii) Notice to the Agency at least 60 days prior to any such intended conveyance or transfer indicating the mechanism(s) to be used to ensure that any land use limitations will be operated or maintained as required in the corrective action plan and No Further Remediation Letter; and

F) Provisions for notifying the Agency if any actions taken by the highway authority or its permittees at the site result in the failure or inability to restore the site to meet the requirements of the corrective action plan and the No Further Remediation Letter.

2) Failure to comply with the requirements of this subsection (c) may result in voidance of the No Further Remediation Letter pursuant to Section 732.704 of this Part as well as any other penalties that may be available.

d) For sites located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title, the following requirements shall apply:

1) To perfect a No Further Remediation Letter containing any restriction on future land use(s), the Federal Landholding Entity or Entities responsible for the site must enter into a Land Use Control Memorandum of Agreement (LUC MOA) with the Agency that requires the Federal Landholding Entity to do, at a minimum, the following:

A) Identify the location on the Federally Owned Property of the site subject to the No Further Remediation Letter. Such identification shall be by means of common address, notations in any available facility master land use plan, site specific GIS or GPS coordinates, plat maps, or any other means that identify the site in question with particularity;

B) Implement periodic site inspection procedures that ensure oversight by the Federal Landholding Entities of any land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

C) Implement procedures for the Federal Landholding Entities to periodically advise the Agency of continued compliance with all maintenance and inspection requirements set forth in the LUC MOA;

D) Implement procedures for the Federal Landholding Entities to notify the Agency of any planned or emergency changes in land use that may adversely impact land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

E) Notify the Agency at least 60 days in advance of a conveyance by deed or fee simple title, by the Federal Landholding Entities, of the site or sites subject to the No Further Remediation Letter, to any entity that will not remain or become a Federal Landholding Entity, and

provide the Agency with information about how the Federal Landholding Entities will ensure the No Further Remediation Letter is recorded on the chain of title upon transfer of the property; and

F) Attach to the LUC MOA a copy of the No Further Remediation Letter for each site subject to the LUC MOA.

2) To perfect a No Further Remediation letter containing no restriction(s) on future land use, the Federal Landholding Entity shall submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter shall be filed in accordance with Illinois law so it forms a permanent part of the chain of title. The Federal Landholding Entity shall obtain and submit to the Agency, within 30 days after recording, a copy of the letter demonstrating that the recording requirements have been satisfied.

3) Failure to comply with the requirements of this subsection (d) and the LUC MOA may result in voidance of the No Further Remediation Letter as well as any other penalties that may be available.

e) At no time shall any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation set forth in the No Further Remediation Letter. The land use limitation specified in the No Further Remediation Letter may be revised only by the perfecting of a subsequent No Further Remediation Letter, issued pursuant to Title XVII of the Act and regulations thereunder, following further investigation or remediation that demonstrates the attainment of objectives appropriate for the new land use.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.704 Voidance of a No Further Remediation Letter

a) The No Further Remediation Letter shall be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but shall not be limited to:

1) Any violations of institutional controls or land use restrictions, if applicable;

2) The failure of the owner or operator or any subsequent transferee to operate and maintain preventive, engineering and institutional controls;

3) Obtaining the No Further Remediation Letter by fraud or misrepresentation;

4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based which:

   A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based;

   B) results in the following:

      i) the site no longer satisfying the criteria of a No Further Action site classification;

      ii) the site no longer satisfying the criteria of a Low Priority site classification;

      iii) failing to meet the remediation objectives established for a High Priority site; and

   C) pose a threat to human health or the environment;

5) Upon the lapse of the 45 day period for recording the No Further Remediation Letter, the failure to record and thereby perfect the No Further Remediation Letter in a timely manner;

6) The disturbance or removal of contamination left in place under an approved plan;

7) The failure to comply with the requirements of Section 732.703(c) and the Memorandum of Agreement entered in accordance with Section 732.703(c) for a site that is located in a highway authority right-of-way;

8) The failure to comply with the requirements of Section 732.703(d) and the LUC MOA entered in accordance with Section 732.703(d)

for a site located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title;

9) The failure to comply with the requirements of Section 732.703(d) of this Part or the failure to record a No Further Remediation Letter perfected in accordance with Section 732.703(d) within 45 days following the transfer of the Federally Owned Property subject to the No Further Remediation Letter to any entity that will not remain or become a Federal Landholding Entity; or

10) The failure to comply with the notice or confirmation requirements of 35 Ill. Adm. Code 742.1015(b)(5) and (c).

b) If the Agency seeks to void a No Further Remediation Letter, it shall provide Notice of Voidance to the current title holder of the site and the owner or operator at his or her last known address.

1) The Notice of Voidance shall specify the cause for the voidance and describe the facts in support of the cause.

2) The Agency shall mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.

c) Within 35 days after receipt of the Notice of Voidance, the current title holder and owner or operator of the site at the time the No Further Remediation Letter was issued may appeal the Agency's decision to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency shall have the burden of proof in such action.

1) If the Agency's action is appealed, the action shall not become effective until the appeal process has been exhausted and a final decision is reached by the Board or courts.

A) Upon receiving a notice of appeal, the Agency shall file a Notice of lis pendens with the office of the recorder or the registrar of titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.

B) If the Agency's action is not upheld on appeal, the Notice of lis pendens shall be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.

2) If the Agency's action is not appealed or is upheld on appeal, the Agency shall submit the Notice of Voidance to the office of the recorder or the registrar of titles for the county in which the site is located. The Notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 732.800 Applicability

a) Methods for Determining Maximum Amounts. This Subpart H provides three methods for determining the maximum amounts that can be paid from the Fund for eligible corrective action costs. All costs associated with conducting corrective action are grouped into the tasks set forth in Sections 732.810 through 732.850 of this Part.

1) The first method for determining the maximum amount that can be paid for each task is to use the maximum amounts for each task set forth in those Sections, and in Section 732.870. In some cases the maximum amounts are specific dollar amounts, and in other cases the maximum amounts are determined on a site-specific basis.

2) As an alternative to using the amounts set forth in Sections 732.810 through 732.850 of this Part, the second method for determining the maximum amounts that can be paid for one or more tasks is bidding in accordance with Section 732.855 of this Part. As stated in that Section, when bidding is used, if the lowest bid for a particular task is less than the amount set forth in Sections 732.810 through 732.850, the amount in Sections 732.810 through 732.850 of this Part may be used instead of the lowest bid.

3) The third method for determining maximum amounts that can be paid from the Fund applies to unusual or extraordinary circumstances. The maximum amounts for such circumstances can be determined in accordance with Section 732.860 of this Part.

b) The costs listed under each task set forth in Sections 732.810 through 732.850 of this Part identify only some of the costs associated with each task. They are not intended as an exclusive list of all costs associated with each task for the purposes of payment from the Fund.

c) This Subpart H sets forth only the methods that can be used to determine the maximum amounts that can be paid from the Fund for eligible corrective action costs. Whether a particular cost is eligible for payment must be determined in accordance with Subpart F of this Part.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.810 UST Removal or Abandonment Costs

Payment for costs associated with UST removal or abandonment of each UST must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the excavation, removal, disposal, and abandonment of UST systems.

UST Volume	Maximum Total Amount per UST
110 – 999 gallons	$2,100
1,000 – 14,999 gallons	$3,150
15,000 or more gallons	$4,100

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.815 Free Product or Groundwater Removal and Disposal

Payment for costs associated with the removal and disposal of free product or groundwater must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of free product or groundwater, and the design, construction, installation, operation, maintenance, and closure of free product or groundwater removal systems.

a) Payment for costs associated with each round of free product or groundwater removal via hand bailing or a vacuum truck must not exceed a total of $0.68 per gallon or $200, whichever is greater.

b) Payment for costs associated with the removal of free product or groundwater via a method other than hand bailing or vacuum truck must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part. Such costs must include, but are not limited to, those associated with the design, construction,

installation, operation, maintenance, and closure of free product and groundwater removal systems.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.820 Drilling, Well Installation, and Well Abandonment

Payment for costs associated with drilling, well installation, and well abandonment must not exceed the amounts set forth in this Section.

a) Payment for costs associated with each round of drilling must not exceed the following amounts. Such costs must include, but not be limited to, those associated with mobilization, drilling labor, decontamination, and drilling for the purposes of soil sampling or well installation.

Type of Drilling	Maximum Total Amount
Hollow-stem auger	greater of $23 per foot or $1,500
Direct-push platform	
- for sampling or other non-injection purposes	greater of $18 per foot or $1,200
- for injection purposes	greater of $15 per foot or $1,200

b) Payment for costs associated with the installation of monitoring wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

Type of Borehole	Maximum Total Amount
Hollow-stem auger	$16.50/foot (well length)
Direct-push platform	$12.50/foot (well length)

c) Payment for costs associated with the installation of recovery wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

Well Diameter	Maximum Total Amount
4 or 6 inches	$25/foot (well length)
8 inches or greater	$41/foot (well length)

d) Payment for costs associated with the abandonment of monitoring wells must not exceed $10 per foot of well length.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.825 Soil Removal and Disposal

Payment for costs associated with soil removal, transportation, and disposal must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives or visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and the purchase, transportation, and placement of material used to backfill the resulting excavation.

a) Payment for costs associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives, visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and concrete, asphalt, or paving overlying such contaminated soil or fill must not exceed a total of $57 per cubic yard.

1) Except as provided in subsection (a)(2) of this Section, the volume of soil removed and disposed of must be determined by the following equation using the dimensions of the resulting excavation: (Excavation Length x Excavation Width x Excavation Depth) x 1.05. A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Section Appendix C of this Part.

b) Payment for costs associated with the purchase, transportation, and placement of material used to backfill the excavation resulting from the removal and disposal of soil must not exceed a total of $20 per cubic yard.

1) Except as provided in subsection (b)(2) of this Section, the volume of backfill material must be determined by the following equation using the dimensions of the backfilled excavation:

(Excavation Length x Excavation Width x Excavation Depth) x 1.05.

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of backfill material used to replace soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Section Appendix C of this Part.

c) Payment for costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is required in order to conduct corrective action must not exceed a total of $6.50 per cubic yard. The volume of soil removed and returned must be determined by the following equation using the dimensions of the excavation resulting from the removal of the soil:

(Excavation Length x Excavation Width x Excavation Depth).

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.830 Drum Disposal

Payment for costs associated with the purchase, transportation, and disposal of 55-gallon drums containing waste generated as a result of corrective action (e.g., boring cuttings, water bailed for well development or sampling, hand-bailed free product) must not exceed the following amounts or a total of $500, whichever is greater.

Drum Contents	Maximum Total Amount per Drum
Solid waste	$250
Liquid waste	$150

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.835 Sample Handling and Analysis

Payment for costs associated with sample handling and analysis must not exceed the amounts set forth in Section Appendix D of this Part. Such costs must include, but are not limited to, those associated with the transportation, delivery, preparation, and analysis of samples, and the reporting of sample results. For laboratory analyses not included in

this Section, the Agency may determine reasonable maximum payment amounts on a site-specific basis.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures

a) Payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the following amounts. Costs associated with the replacement of concrete, asphalt, and paving used as an engineered barrier are subject to the maximum amounts set forth in subsection (b) of this Section instead of this subsection (a).

Depth of Material		Maximum Total Amount per Square Foot
Asphalt and paving –	2 inches	$1.65
	3 inches	$1.86
	4 inches	$2.38
Concrete –	any depth	$2.38

b) Payment for costs associated with the replacement of concrete, asphalt, and paving must not exceed the following amounts:

Depth of Material		Maximum Total Amount per Square Foot
Asphalt and paving –	2 inches	$1.65
	3 inches	$1.86
	4 inches	$2.38
	6 inches	$3.08
Concrete –	2 inches	$2.45
	3 inches	$2.93
	4 inches	$3.41
	5 inches	$3.89
	6 inches	$4.36
	8 inches	$5.31

For depths other than those listed in this subsection, the Agency must determine reasonable maximum payment amounts on a site-specific basis.

c) Payment for costs associated with the destruction or the dismantling and reassembly of above grade structures must not exceed the time and material amounts set forth in Section 732.850 of this Part. The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed $10,000 per site.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.845 Professional Consulting Services

Payment for costs associated with professional consulting will be reimbursed on a time and materials basis pursuant to Section 732.850. Such costs must include, but are not limited to, those associated with project planning and oversight; field work; field oversight; travel; per diem; mileage; transportation; vehicle charges; lodging; meals; and the preparation, review, certification, and submission of all plans, budget plans, reports, applications for payment, and other documentation.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.850 Payment on Time and Materials Basis

This Section sets forth the maximum amounts that may be paid when payment is allowed on a time and materials basis.

a) Payment for costs associated with activities that have a maximum payment amount set forth in other Sections of this Subpart H (e.g, sample handling and analysis, drilling, well installation and abandonment, or drum disposal must not exceed the amounts set forth in those Sections, unless payment is made pursuant to Section 732.860 of this Part.

b) Maximum payment amounts for costs associated with activities that do not have a maximum payment amount set forth in other Sections of this Subpart H must be determined by the Agency on a site-specific basis, provided, however, that personnel costs must not exceed the amounts set forth in Section Appendix E of this Part. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work. Owners and operators seeking payment must demonstrate to the Agency that the amounts sought are reasonable.

BOARD NOTE: Alternative technology costs in excess of the costs of conventional technology are ineligible for payment from the Fund. See Sections 732.407(b) and 732.606(bb) of this Part.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.855 Bidding

As an alternative to the maximum payment amounts set forth in this Subpart H, one or more maximum payment amounts may be determined via bidding in accordance with this Section. Each bid must cover all costs included in the maximum payment amount that the bid is replacing.

a) A minimum of three written bids must be obtained. The bids must be based upon the same scope of work and must remain valid for a period of time that will allow the owner or operator to accept them upon the Agency's approval of the associated budget. Bids must be obtained only from persons qualified and able to perform the work being bid. Bids must not be obtained from persons in which the owner or operator, or the owner's or operator's primary contractor, has a financial interest.

b) The bids must be summarized on forms prescribed and provided by the Agency. The bid summary form, along with copies of the bid requests and the bids obtained, must be submitted to the Agency in the associated budget. If more than the minimum three bids are obtained, summaries and copies of all bids must be submitted to the Agency.

c) The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amount set forth in this Subpart H in which case the maximum payment amount set forth in this Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.860 Unusual or Extraordinary Circumstances

If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency may determine maximum payment amounts for the costs on a site-specific basis. Owners and operators seeking to have the Agency determine maximum payment amounts pursuant to this Section must demonstrate to the Agency that the costs for which they are seeking a determination are eligible for payment from the Fund, exceed the maximum payment amounts set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part. Examples of unusual or extraordinary circumstances may include, but are not limited to, an inability to obtain a minimum of three bids pursuant to Section 732.855 of this Part due to a limited number of persons providing the service needed.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.865 Handling Charges

Payment of handling charges must not exceed the amounts set forth in Section 732.607 of this Part.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.870 Increase in Maximum Payment Amounts

The maximum payment amounts set forth in this Subpart H must be adjusted annually by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business.

a) The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest $1/100^{th}$. In no case must the inflation factor be more than five percent in a single year.

b) Adjusted maximum payment amounts must become effective on July 1 of each year and must remain in effect through June 30 of the following year. The first adjustment must be made on July 1, 2006 by multiplying the maximum payment amounts set forth in this Subpart H by the applicable

inflation factor. Subsequent adjustments must be made by multiplying the latest adjusted maximum payment amounts by the latest inflation factor.

c) The Agency must post the inflation factors on its website no later than the date they become effective. The inflation factors must remain posted on the website in subsequent years to aid in the calculation of adjusted maximum payment amounts.

d) Adjusted maximum payment amounts must be applied as follows:

1) For costs approved by the Agency in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Agency received the budget in which the costs were proposed. Once the Agency approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g, by proposing the cost in a subsequent budget).

2) For costs not approved by the Agency in writing prior to the date the costs are incurred, including but not limited to early action costs, the applicable maximum payments amounts must be the amounts in effect on the date the costs were incurred.

3) Owners and operators must have the burden of requesting the appropriate adjusted maximum payment amounts in budgets and applications for payment.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.875 Agency Review of Payment Amounts

At least every three years, the Agency must review the amounts set forth in this Subpart H and submit a report to the Board on whether the amounts are consistent with the prevailing market rates. The report must identify amounts that are not consistent with the prevailing market rates and suggest changes needed to make the amounts consistent with the prevailing market rates. The Board must publish notice of receipt of the report in the Environmental Register and on the Board's web page.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.APPENDIX A Indicator Contaminants

TANK CONTENTS	INDICATOR CONTAMINANTS
GASOLINE	Benzene
leaded(1), unleaded, premium, and gasohol	Ethylbenzene
	Toluene
	Xylene
	Methyl tertiary butyl ether (MTBE)
MIDDLE DISTILLATE AND HEAVY ENDS	
aviation turbine fuels(1)	Benzene
jet fuels	Ethylbenzene
	Toluene
	Xylene
diesel fuels	Acenaphthene
gas turbine fuel oils	Anthracene
heating fuel oils	Benzo (a)anthracene
illuminating oils	Benzo (a)pyrene
kerosene	Benzo (b)fluoranthene
lubricants	Benzo (k)fluoranthene
liquid asphalt and dust laying oils	Chrysene
cable oils	dibenzo(a,h)anthracene
crude oil, crude oil fractions	Fluoranthene
petroleum feedstocks	Fluorene
petroleum fractions	Indeno (1,2,3-c,d)pyrene
heavy oils	Naphthalene
transformer oils(2)	Pyrene
hydraulic fluids(3)	Acenaphthylene
petroleum spirits(4)	Benzo(g,h,i)perylene
mineral spirits(4), Stoddard solvents(4)	Phenanthrene
high-flash aromatic naphthas(4)	
VM&P naphthas(4)	
moderately volatile hydrocarbon solvents(4)	
petroleum extender oils(4)	
USED OIL	Screening sample(5)

(1) lead is also an indicator contaminant

(2) the polychlorinated biphenyl parameters listed in Appendix B are also indicator contaminants

(3) barium is also an indicator contaminant

(4) the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B are also indicator contaminants

(5) used oil indicator contaminants shall be based on the results of a used oil soil sample analysis - refer to Section 732.310(g)

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.APPENDIX B Additional Parameters

Volatiles

1. Benzene
2. Bromoform
3. Carbon tetrachloride
4. Chlorobenzene
5. Chloroform
6. Dichlorobromomethane
7. 1,2-Dichloroethane
8. 1,1-Dichloroethene
9. cis-1,2-Dichloroethylene
10. trans-1,2-Dichloroethylene
11. Dichloromethane (Methylene chloride)
12. 1,2-Dichloropropane
13. 1,3-Dichloropropylene (cis + trans)
14. Ethylbenzene
15. Styrene
16. Tetrachloroethylene
17. Toluene
18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

Base/Neutrals

1. Bis(2-chloroethyl)ether
2. Bis(2-ethylhexyl)phthalate
3. 1,2-Dichlorobenzene
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. *n*-Nitrosodi-*n*-propylamine
8. *n*-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

Polynuclear Aromatics

1. Acenaphthene
2. Anthracene
3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Dibenzo(a,h)anthracene
9. Fluoranthene
10. Fluorene
11. Indeno(1,2,3-c,d)pyrene
12. Naphthalene
13. Pyrene
14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene

Metals (total inorganic and organic forms)

1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Lead
6. Mercury
7. Selenium

Polychlorinated Biphenyls

1. Polychlorinated Biphenyls
   (as Decachlorobiphenyl)

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732. Table A Groundwater and Soil Remediation Objectives (Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732. Table B Soil Remediation Methodology: Model Parameter Values (Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732. Table C Soil Remediation Methodology: Chemical Specific Parameters(Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732. Table D Soil Remediation Methodology: Objectives (Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732. Illustration A Equation For Groundwater Transport (Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732. Illustration B Equation For Soil-Groundwater Relationship (Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732. Illustration C Equation For Calculating Groundwater Objectives at the Source (Repealed)

(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732. Illustration D Equation For Calculating Soil Objectives at the Source (Repealed)
(Source: Repealed at 21 Ill. Reg. 3617, effective July 1, 1997.)

Section 732.APPENDIX C Backfill Volumes

Volume of Tank in Gallons	Maximum amount of backfill material to be removed:	Maximum amount of backfill material to be replaced:
	Cubic yards	Cubic yards
<285	54	56
285 to 299	55	57
300 to 559	56	58
560 to 999	67	70
1000 to 1049	81	87
1050 to 1149	89	96
1150 to 1999	94	101
2000 to 2499	112	124
2500 to 2999	128	143
3000 to 3999	143	161
4000 to 4999	175	198
5000 to 5999	189	219

6000 to 7499	198	235
7500 to 8299	206	250
8300 to 9999	219	268
10,000 to 11,999	252	312
12,000 to 14,999	286	357
>15,000	345	420

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.APPENDIX D Sample Handling and Analysis

	Max. Total Amount per Sample
Chemical	
BETX Soil with MTBE	$85
BETX Water with MTBE	$81
COD (Chemical Oxygen Demand)	$30
Corrosivity	$15
Flash Point or Ignitability Analysis EPA 1010	$33
FOC (Fraction Organic Carbon)	$38
Fat, Oil, & Grease (FOG)	$60
LUST Pollutants Soil - analysis must include all volatile, base/neutral, polynuclear aromatic, and metal parameters listed in Section 732.AppendixB of this Part	$693
Organic Carbon (ASTM-D 2974-87)	$33
Dissolved Oxygen (DO)	$24
Paint Filter (Free Liquids)	$14
PCB / Pesticides (combination)	$222
PCBs	$111
Pesticides	$140
PH	$14
Phenol	$34
Polynuclear Aromatics PNA, or PAH SOIL	$152
Polynuclear Aromatics PNA, or PAH WATER	$152
Reactivity	$68
SVOC - Soil (Semi-volatile Organic Compounds)	$313
SVOC - Water (Semi-volatile Organic Compounds)	$313
TKN (Total Kjeldahl) "nitrogen"	$44
TOC (Total Organic Carbon) EPA 9060A	$31

TPH (Total Petroleum Hydrocarbons)	$122
VOC (Volatile Organic Compound) - Soil (Non-Aqueous)	$175
VOC (Volatile Organic Compound) - Water	$169
Geo-Technical	
Bulk Density ASTM D4292 / D2937	$22
Ex-Situ Hydraulic Conductivity / Permeability	$255
Moisture Content ASTM D2216-90 / D4643-87	$12
Porosity	$30
Rock Hydraulic Conductivity Ex-Situ	$350
Sieve / Particle Size Analysis ASTM D422-63 / D1140-54	$145
Soil Classification ASTM D2488-90 / D2487-90	$68
Metals	
Arsenic TCLP Soil	$16
Arsenic Total Soil	$16
Arsenic Water	$18
Barium TCLP Soil	$10
Barium Total Soil	$10
Barium Water	$12
Cadmium TCLP Soil	$16
Cadmium Total Soil	$16
Cadmium Water	$18
Chromium TCLP Soil	$10
Chromium Total Soil	$10
Chromium Water	$12
Cyanide TCLP Soil	$28
Cyanide Total Soil	$34
Cyanide Water	$34
Iron TCLP Soil	$10
Iron Total Soil	$10
Iron Water	$12
Lead TCLP Soil	$16
Lead Total Soil	$16
Lead Water	$18
Mercury TCLP Soil	$19
Mercury Total Soil	$10
Mercury Water	$26
Selenium TCLP Soil	$16
Selenium Total Soil	$16
Selenium Water	$15
Silver TCLP Soil	$10
Silver Total Soil	$10

Silver Water	$12
Metals TCLP Soil (a combination of all RCRA metals)	$103
Metals Total Soil (a combination of all RCRA metals)	$94
Metals Water (a combination of all RCRA metals)	$119
Soil preparation for Metals TCLP Soil (one fee per sample)	$79
Soil preparation for Metals Total Soil (one fee per sample)	$16
Water preparation for Metals Water (one fee per sample)	$11
Other	
En Core® Sampler, purge-and-trap sampler, or equivalent sampling device	$10
Sample Shipping (*maximum total amount for shipping all samples collected in a calendar day)	$50*

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.APPENDIX E Personnel Titles and Rates

Title	Degree Required	Ill. License Req'd.	Min. Yrs. Experience	Max. Hourly Rate
Engineer I	Bachelor's in Engineering	None	0	$75
Engineer II	Bachelor's in Engineering	None	2	$85
Engineer III	Bachelor's in Engineering	None	4	$100
Professional Engineer	Bachelor's in Engineering	P.E.	4	$110
Senior Prof. Engineer	Bachelor's in Engineering	P.E.	8	$130
Geologist I	Bachelor's in Geology or Hydrogeology	None	0	$70
Geologist II	Bachelor's in Geology or Hydrogeology	None	2	$75
Geologist III	Bachelor's in Geology or Hydrogeology	None	4	$88
Professional Geologist	Bachelor's in Geology or Hydrogeology	P.G.	4	$92
Senior Prof. Geologist	Bachelor's in Geology or Hydrogeology	P.G.	8	$110
Scientist I	Bachelor's in a Natural or Physical Science	None	0	$60
Scientist II	Bachelor's in a Natural or Physical Science	None	2	$65
Scientist III	Bachelor's in a Natural or Physical Science	None	4	$70
Scientist IV	Bachelor's in a Natural or Physical Science	None	6	$75
Senior Scientist	Bachelor's in a Natural or Physical Science	None	8	$85
Project Manager	None	None	8[1]	$90
Senior Project Manager	None	None	12[1]	$100
Technician I	None	None	0	$45
Technician II	None	None	2[1]	$50
Technician III	None	None	4[1]	$55
Technician IV	None	None	6[1]	$60

Senior Technician	None	None	8[1]	$65
Account Technician I	None	None	0	$35
Account Technician II	None	None	2[2]	$40
Account Technician III	None	None	4[2]	$45
Account Technician IV	None	None	6[2]	$50
Senior Acct. Technician	None	None	8[2]	$55
Administrative Assistant I	None	None	0	$25
Administrative Assistant II	None	None	2[3]	$30
Administrative Assistant III	None	None	4[3]	$35
Administrative Assistant IV	None	None	6[3]	$40
Senior Admin. Assistant	None	None	8[3]	$45
Draftperson/CAD I	None	None	0	$40
Draftperson/CAD II	None	None	2[4]	$45
Draftperson/CAD III	None	None	4[4]	$50
Draftperson/CAD IV	None	None	6[4]	$55
Senior Draftperson/CAD	None	None	8[4]	$60

[1] Equivalent work-related or college level education with significant coursework in the physical, life, or environmental sciences can be substituted for all or part of the specified experience requirements.

[2] Equivalent work-related or college level education with significant coursework in accounting or business can be substituted for all or part of the specified experience requirements.

[3] Equivalent work-related or college level education with significant coursework in administrative or secretarial services can be substituted for all or part of the specified experience requirements.

[4] Equivalent work-related or college level education with significant coursework in drafting or computer aided design ("CAD") can be substituted for all or part of the specified experience requirements.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 176
ADMINISTRATIVE REQUIREMENTS FOR UNDERGROUND STORAGE TANKS AND THE STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM AND OTHER REGULATED SUBSTANCES

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176.APPENDIX A Derivation Table

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

SOURCE: Adopted at 34 Ill. Reg. ______, effective ____________.

SUBPART A: DEFINITIONS

Section 176.100 Definitions

Unless otherwise provided in this Part, all terms in this Part shall have the definitions provided by 41 Ill. Adm. Code 174.

SUBPART B: FINANCIAL ASSURANCE

Section 176.200 Definitions

"Bodily Injury" means bodily injury, sickness or disease sustained by a person, including death at any time, resulting from a release of petroleum from a UST.

"IEMA" means the Illinois Emergency Management Agency.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release of petroleum into the environment from a UST.

"OSFM" means the Office of the State Fire Marshal.

"Property Damage" means physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of an occurrence.

"Provider of Financial Assurance" means an entity that provides financial assurance to an owner or operator of a UST through one or more mechanisms listed in Section 176.215, including the fiduciary of a designated savings account.

"Underground Storage Tank Trust Fund" or "UST Fund" means the fund created as a special fund in the Illinois State Treasury at 415 ILCS 5/57.11.

"UST" means underground storage tank system.

Section 176.205 Applicability

a) This Subpart B applies to all owners or operators of USTs in the ground as of April 1, 1995 and implements Section 6.1 of the Gasoline Storage Act [430 ILCS 15/6.1], which imposes a State law financial assurance requirement of $20,000 per owner or operator.

b) All owners or operators of hazardous substance USTs are excluded from regulation under this Subpart B.

c) Although the UST Fund assists certain petroleum UST owners in paying for corrective action or third-party liability (see 415 ILCS 5/57.9), for purposes of this Subpart the UST Fund is not considered a mechanism for the financial responsibility compliance required under Section 6.1 of the Gasoline Storage Act as implemented by this Subpart.

d) None of the financial responsibility mechanisms specified in Section 176.215 are required by OSFM to include a standby trust.

Section 176.210 Amount

Each owner or operator shall maintain financial responsibility in the sum of $20,000, regardless of the number of USTs or facilities owned or operated. This $20,000 shall be comprised as follows:

a) $10,000 per occurrence for corrective action; and

b) $10,000 per occurrence for third-party liability for bodily injury or property damage.

Section 176.215 Mechanisms of Financial Responsibility

Under Section 6.1 of the Gasoline Storage Act, only the following may be considered acceptable mechanisms for financial responsibility:

a) Commercial or private insurance, including risk retention groups (40 CFR 280.97, incorporated by reference in 41 Ill. Adm. Code 174.210);

b) Self-insurance (40 CFR 280.95, incorporated by reference in 41 Ill. Adm. Code 174.210), if there is a tangible net worth of at least $200,000;

c) Guarantee (40 CFR 280.96, incorporated by reference in 41 Ill. Adm. Code 174.210);

d) Surety bond (40 CFR 280.98, incorporated by reference in 41 Ill. Adm. Code 174.210);

e) Letter of credit (40 CFR 280.99, incorporated by reference in 41 Ill. Adm. Code 174.210);

f) Certificate of deposit;

g) Designated savings account; or

h) Any combination of the mechanisms listed in this Section.

Section 176.220 Proof of Financial Responsibility

a) Proof of financial responsibility for Section 176.215(a), (b), (c), (d) or (e) shall be maintained on the respective forms located in 40 CFR 280, incorporated by reference in 41 Ill. Adm. Code 174.210. These forms shall be modified to comply with Section 176.210. It is the responsibility of tank owners or operators to modify the forms.

b) Proof of financial responsibility for Section 176.215(f) or (g) shall be documented by written proof from the appropriate financial institution that is at all times current, as reflected by copies of the same records on file with the financial institution.

c) The forms referenced in subsection (a) of this Section shall be renewed on an annual basis.

d) An annual notification indicating the financial responsibility mechanism chosen under Section 176.215 by the owner or operator, on forms provided by OSFM (available at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications") shall be sent to OSFM on an annual basis. If a self-insurance mechanism (under Section 176.215(b)) is chosen, the facility shall send copies of the required proof to OSFM on an annual basis, which shall include:

1) the annual notification under this subsection (d) indicating the financial responsibility mechanism chosen;

2) a letter by the Chief Financial Officer that shall include the items specified for this letter as stated in 40 CFR 280.95, although it may show a tangible net worth equal to or greater than $200,000;

3) a statement prepared by an independent public accountant that meets the financial criteria and requirements of 40 CFR 280.95, except that the statement may show a tangible net worth equal to or greater than $200,000, which statement may be on the OSFM form provided for this purpose, found at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications").

e) The forms referenced in subsections (a), (b) and (c) of this Section shall include the name, address and facility identification number for each facility, as applicable.

Section 176.225 Substitution of Financial Responsibility Mechanisms by an Owner or Operator

a) An owner or operator may substitute any alternative financial responsibility mechanism specified in Section 176.215, provided that at all times the owner or operator maintains an effective financial responsibility mechanism or combination of mechanisms that satisfies the requirements of this Subpart.

b) After obtaining alternative financial responsibility as specified in Section 176.215, an owner or operator may cancel the replaced financial responsibility mechanism by providing notice to the provider of financial assurance.

Section 176.230 Cancellation or Non-Renewal by a Provider of Financial Assurance

a) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending notice of termination by certified mail to the owner or operator.

1) Termination of a guarantee, surety bond or letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.

2) Termination of commercial or private insurance or risk retention group coverage may not occur until 60 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.

b) If a provider of financial assurance cancels or fails to renew an assurance mechanism, for reasons specified in Section 176.250(c), the owner or operator must obtain alternative coverage, in a form allowed by Section 176.215, within 60 days after receipt of the notice of termination. When the owner or operator fails to obtain alternative coverage within 60 days after receipt of the notice of termination, the owner or operator shall notify OSFM of that failure, in writing, by certified mail, within 10 days. The notification to OSFM shall include:

1) Name and address of the provider of financial assurance;

2) Effective date of termination;

3) Evidence of the financial responsibility mechanism subject to the termination, maintained in accordance with Section 176.240(b); and

4) Name, address and facility identification number for each affected facility.

Section 176.235 Reporting by Owner or Operator

a) An owner or operator shall certify compliance with the financial responsibility requirements in Section 176.215, as specified in the notification form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, when notifying OSFM of any new or existing UST, in accordance with Section 176.440.

b) An owner or operator shall notify OSFM on an amended notification form when there is a change in status of financial responsibility, in accordance with Section 176.440(g).

c) OSFM may require an owner or operator to submit evidence of financial responsibility as described in Section 176.240(b) or other information relevant to compliance with this Subpart at any time. The request shall be in writing, sent by U.S. Mail, registered or certified, to the facility or owner's address on the most recent notification form submitted to OSFM.

Section 176.240 Recordkeeping

a) Owners or operators shall maintain evidence of all financial responsibility mechanisms used to demonstrate financial responsibility (pursuant to this Subpart) for a UST until released from the requirements of this Subpart under Section 176.245. An owner or operator shall maintain that evidence at the UST site or the owner's or operator's principal place of business. Records maintained off-site shall be made available upon written request from OSFM, sent by U.S. Mail, registered or certified, to the facility or owner's address on the most recent notification form submitted to OSFM, and the recipient shall comply within 10 days after receipt.

b) An owner or operator shall maintain a copy of the following types of evidence of financial responsibility:

1) An owner or operator using a financial responsibility mechanism as specified in Section 176.215 shall maintain a copy of the instrument required under Section 176.220.

2) An owner or operator using a financial test or guarantee shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. This evidence shall be on file no later than 120 days after the close of the financial reporting year. The letter by the Chief Financial Officer shall be accompanied by the documents identified in Section 176.220(d)(1) and (d)(3) and shall include the items specified for this letter in 40 CFR 280.95, although it may show a tangible net worth equal to or greater than $200,000.

3) An owner or operator using a commercial or private insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreement.

4) An owner or operator using a financial responsibility mechanism as specified in Section 176.215 shall maintain an updated copy of a certification of financial responsibility (see 40 CFR 280.111(b)(11), incorporated by reference in 41 Ill. Adm. Code 174.210).

Section 176.245 Release from the Requirements

An owner or operator is no longer required to maintain financial responsibility pursuant to this Subpart for a UST after the UST has been removed or abandoned-in-place, in accordance with 41 Ill. Adm. Code 175.830 and 175.840.

Section 176.250 Bankruptcy or Other Incapacity of Owner, Operator or Provider of Financial Assurance

a) Within 10 days after commencement of a voluntary or involuntary proceeding for relief under the United States Bankruptcy Code (11 USC 101 et seq.) naming an owner or operator as debtor, the owner or operator must notify OSFM by certified mail of that commencement and submit the appropriate forms listed in Section 176.240(b), documenting current financial responsibility.

b) Within 10 days after commencement of a voluntary or involuntary proceeding for relief under the United States Bankruptcy Code naming a guarantor providing financial assurance as debtor, the guarantor must notify the owner or operator by certified mail of that commencement as required under the terms of the guarantee specified in 40 CFR 280.96, incorporated by reference in 41 Ill. Adm. Code 174.210.

c) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial responsibility in the event of a bankruptcy or incapacity of its provider of financial assurance or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, commercial or private insurance policy, risk retention group coverage policy, surety bond, letter of credit or certificate of deposit or act as fiduciary of a designated savings account. The owner or operator must obtain alternative financial assurance as specified in Section 176.215 within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternative coverage within 30 days after notification, the owner or operator shall notify OSFM in writing, sent by certified mail, within 10 days after receiving notice of the bankruptcy event.

SUBPART C: RELEASE REPORTING AND SITE ASSESSMENT

Section 176.300 Reporting of Suspected Releases

a) Owners or operators of USTs shall immediately report to IEMA (from Illinois, 1-800-782-7860; from outside Illinois, 217/782-7860) and follow the procedures in Sections 176.310, 176.320(b) and (c) and 176.350 in any of the following situations:

1) The discovery by owners, operators, product delivery drivers or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface water);

2) Unusual operating conditions observed by owners or operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; or

3) Monitoring results from a release detection method required under 41 Ill. Adm. Code 175.620, 175.630 or 175.640 that indicate a release may have occurred, unless:

A) The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or

B) In the case of monthly inventory control, a second month of data does not confirm the initial result; however, the immediate reporting requirement under this Section remains in effect.

b) In addition to IEMA, the 911 call center shall immediately be called when a suspected release presents a hazard to life, for example, when observations demonstrate the presence of petroleum or hazardous substance vapors in sewers or basements or free product near utility lines, or where a sheen is present on a body of water.

c) Once a release has been confirmed under the procedures of Section 176.310, the reporting procedures of Section 176.320 shall apply.

d) Notification of Suspected Release at the Direction of STSS. The owner, operator or designated representative of the UST must notify IEMA and any other entities required to be notified under Section 176.320 of a suspected release, when

directed to do so by the storage tank safety specialist (STSS) employed by OSFM. This is to be done at the time of discovery and the incident number shall be given to the STSS prior to leaving the site.

Section 176.310 Release Investigation Reporting and Site Assessment

a) Investigation Due to Off-Site Impact. When required in writing by OSFM, owners or operators of USTs shall determine if the UST is the source of off-site impacts. These impacts include the discovery of regulated substances, such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface or drinking water that have been observed by OSFM or brought to its attention by another party.

b) Release Investigations and Confirmation Steps. Unless corrective action is initiated, owners or operators shall immediately investigate and within 7 days shall confirm the presence or absence of all suspected releases of regulated substances requiring reporting, using the following procedures:

1) System Test. Owners and operators must conduct tests (according to the requirements for tightness testing of 41 Ill. Adm. Code 175.630(c) and 175.640(a)(5)) that determine whether a leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or both. Owners or operators shall repair, replace or upgrade the UST and begin corrective action, if the test results for the system, tank or delivery piping indicate that a leak exists;

2) Further investigation is not required if the test results for the tank system and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release; and

3) Owners or operators shall conduct a site assessment (utilizing the requirements of Section 176.330) if the test results for the system, tank and delivery piping do not indicate that a leak exists, but environmental contamination is the basis for suspecting a release. In the event lab results are not forthcoming within 7 days, the owner/operator shall have such reasonable additional time as is necessary to receive the results, but the total time period to confirm the presence or absence of a release and report any confirmed release shall not in any event exceed 45 days.

c) Initial Site Assessment. An initial site assessment shall follow the procedures and requirements identified in Section 176.330.

1) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners or operators shall begin initial response and initial abatement procedures under Sections 176.350 and 176.320(b) and (c).

2) If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.

Section 176.320 Initial Response and Reporting of Confirmed Releases

Initial Response. Upon confirmation of a release of a regulated substance, owners or operators shall perform the following initial response actions:

a) Immediately report the release.

1) The release shall be reported by calling the 911 call center and then IEMA in the following situations:

A) Spills and overfills of petroleum products over 25 gallons and spills and overfills of hazardous substances over a reportable quantity as defined in 41 Ill. Adm. Code 174.100.

B) Spills, overfills or confirmed releases that present a hazard to life, for example, when observations demonstrate the presence of petroleum or hazardous substance vapors in sewers or basements or free product near utility lines, or where a sheen is present on a body of water.

2) All other confirmed releases shall be reported to the local authority having jurisdiction and to IEMA. A call to the fire department in whose jurisdiction the release occurred may be done in the absence of an available 911 emergency telephone number. IEMA may be reached at 1-800-782-7860 (from inside Illinois) or 217-782-7860 (from outside Illinois). If known, the caller shall inform IEMA whether the same release had previously been called in as a suspected release.

3) A release of a hazardous substance equal to or in excess of the reportable quantity shall be reported to the following entities in addition to those identified in subsection (a)(1):

A) to the Local Emergency Planning Committee (LEPC) that is likely to be affected by the release (found at http://www.state.il.us/iema/disaster/LEPCContactList.xls); and

B) the National Response Center (800-424-8802);

b) Take immediate action to prevent any further release of the regulated substance into the environment; and

c) Immediately identify and mitigate fire, explosion and vapor hazards.

Section 176.330 Procedures for Site Assessments

a) All site assessments and related reports must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist. All site assessment work shall meet accepted engineering standards or accepted standards for the practice of professional geology and be conducted according to the best professional judgment and diligence of the supervising Licensed Professional Engineer or Licensed Professional Geologist, as the case may be.

b) Owners or operators shall measure for the presence of a release where contamination is most likely to be present at the UST site by conducting sampling in the same manner and following the same procedures as required under the Board's Petroleum Underground Storage Tanks rules at 35 Ill. Adm. Code 734.210(h)(1) and (2). Samples must be analyzed for the same applicable indicator contaminants as required under 35 Ill. Adm. Code 734.405. All sampling must meet the same data quality and certification requirements as set forth in 35 Ill. Adm. Code 734.415 and 734.420. If soil borings are involved the owner or operator must follow the same requirements as set forth in 35 Ill. Adm. Code 734.425 and 734.435. For UST removals, samples shall be taken in native soil within 24 hours after removal of the tanks and piping. In selecting sample types, locations and measurement methods, owners or operators shall also consider the nature of the stored substance, the type of initial alarm or cause for suspicion, if any, the method of tank removal, the types of backfill, the depth of groundwater and other factors appropriate for identifying the presence and source

of the release. Packaging for shipping or delivery should be done in a manner that will preserve the sample and prevent deterioration or dilution, as for example, putting samples in sealed containers in ice.

c) Within 45 days after receipt of lab results, owners or operators must designate and provide to OSFM, on OSFM forms (entitled "site assessments results form" and found at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications"), a pass/fail result indicating whether a release has occurred. This determination shall be based upon an evaluation of lab results to determine whether any contamination has been found. A pass result for the UST (finding no contamination and, therefore, no need to report to IEMA) must be certified by a licensed environmental engineer or licensed environmental geologist, competent and experienced in performing site assessments, using accepted practices for these assessments, consistent with the site characteristics and conditions. In the event a suspected release was previously called into IEMA and is being confirmed by site assessment, the pass/fail result form shall be provided to IEPA in addition to OSFM.

d) In the event that sampling or other site observations disclose evidence of a release or site assessment lab results show site contamination, the owner or operator shall immediately cease site assessment work and shall immediately notify IEMA and any other required entities of a suspected release, as required by Section 176.320, and begin corrective action.

e) Records generated from site assessments and related activity shall be kept at the site (or available within 30 minutes or before OSFM completes its inspection, whichever is later) and may not be discarded or destroyed unless and until a No Further Remediation (NFR) letter is issued by IEPA or until the site permanently ceases the activity involved in using the USTs and any site assessments required under this Part are completed and show no evidence of contamination. Owners or operators claiming that required records were destroyed, discarded or lost prior to September 1, 2010 or by a prior owner of the subject UST property shall conduct a new site assessment when the assessment is required by OSFM rules for continued or future use of the USTs.

Section 176.340 Reporting and Cleanup of Spills and Overfills

a) Owners or operators of USTs shall contain and immediately clean up a spill or overfill, immediately report either release to the 911 call center and then to

IEMA, and begin initial response and initial abatement in accordance with Sections 176.310, 176.320 and 176.350, in the following situations:

1) Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on a nearby body of water; or

2) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds the reportable quantity (see 41 Ill. Adm. Code 174.100). Under Section 176.320, this kind of release shall also be immediately reported to the Local Emergency Planning Committee and to the National Response Center.

b) Owners or operators of USTs shall contain and immediately clean up a spill or overfill of petroleum that is 25 gallons or less and a spill or overfill of a hazardous substance that is less than the reportable quantity. In doing so, the owner or operator shall comply with procedures specified in Section 176.350. If cleanup cannot be accomplished within 24 hours, owners or operators shall immediately notify IEMA and the local authority having jurisdiction of the release.

Section 176.350 Initial Release Abatement Measures

Unless directed in writing to do otherwise by OSFM, owners or operators shall perform the following release abatement measures:

a) Remove as much of the regulated substance from the UST as is necessary to prevent further release to the environment;

b) Visually inspect any aboveground release or exposed belowground release and prevent further migration of the released substance into surrounding soils and groundwater;

c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements); and

d) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with applicable State and local requirements.

Section 176.360 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of USTs

a) Within 24 hours after removal is completed, or prior to a change in service from a regulated product to an unregulated product, the following procedures shall be conducted.

1) The owner or operator shall perform a site assessment using the procedures and requirements of Section 176.330;

2) The owner or operator, or his or her designated representative, shall immediately report a release or suspected release, based upon a visual observation by STSS or upon a site assessment showing the existence of a release, to IEMA and any other entities required under Section 176.320 and secure an incident number. If confirmation of the release is via a visual observation by STSS or otherwise confirmed while STSS is still on site, the incident number shall be provided to STSS at the conclusion of the removal and prior to the departure of STSS.

3) If contaminated soils, groundwater or free product as a liquid or vapor, resulting from a UST release is discovered, the owner or operator shall begin initial response and initial abatement procedures in accordance with Sections 176.310, 176.320 and 176.350.

b) When directed in writing by OSFM, the owner or operator of a UST previously removed shall assess the excavation zone (including, if so ordered, re-excavating and assessing the site where the tank had been located) in accordance with Section 176.330.

SUBPART D: GENERAL TECHNICAL REQUIREMENTS, INCLUDING REPORTING, RECORDKEEPING AND NOTIFICATION

Section 176.400 Delegation of Authority to Enforce UST Rules and Regulations

Pursuant to 430 ILCS 15/2, OSFM has authority to delegate to the City of Chicago enforcement of its UST rules and regulations.

a) The methods and procedures of this enforcement do not have to be identical with those of OSFM; however, OSFM has oversight concerning this enforcement.

b) Subject to the terms of a delegation agreement, when OSFM is expressly authorized to initiate enforcement action, the City of Chicago has concurrent authority.

c) The rules and regulations of the City of Chicago shall not be less stringent than 41 Ill. Adm. Code 174 through 177.

Section 176.410 General Requirement to Maintain All Equipment

All equipment and other items shall be maintained in accordance with 41 Ill. Adm. Code 174 through 176 and manufacturer's instructions and otherwise shall be kept in good operating condition at all times.

Section 176.420 Requirement that UST Components Be Third Party Listed

a) All installed UST components and ancillary equipment shall be third party listed (see 41 Ill. Adm. Code 174.100) for their performance in the intended use, as well as installed and maintained according to the manufacturer's instructions. Replaceable subcomponents shall be of a type recommended by the manufacturer. In the event the third party listing is unattainable, OSFM may accept, from a Licensed Professional Engineer, certification that the non-listed component will perform as intended and will meet performance requirements under 40 CFR 280 and this Part when used as intended. In the event third party listing and certification by a licensed professional engineer are both unattainable, OSFM may permit use of the component if a licensed installation/retrofitting contractor inspects the component on an annual or more frequent basis and, after each inspection, certifies to OSFM on forms provided by OSFM (available at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications"), that the component has been inspected and there is no visible evidence of product leakage, release, or other operational problems or other defect in performance. In the event a listed component becomes available, facilities shall have 12 months to replace non-listed components with listed components.

b) In addition to the requirement that all UST components be third party listed for their performance in the intended use, all UST components must also be third party listed as compatible with the product to be stored under 41 Ill. Adm. Code 175.415. This would include third party listing requirements for components used

with alternative or blended fuels and product compatibility requirements for hazardous substance USTs, see 41 Ill. Adm. Code 175.415 and 175.620.

Section 176.430 Reporting and Recordkeeping

a) Reporting. Owners and operators must submit the following information to OSFM:

1) Notification for all USTs (Section 176.440);

2) Certification of installation for USTs (Section 176.430(f));

3) Reports of all releases, including suspected releases (Section 176.300), spills and overfills (Section 176.340), and confirmed releases (Section 176.320);

4) Initial response, including leak abatement, site characterization, and fire and explosion mitigation (40 CFR 280, subpart F, incorporated by reference in 41 Ill. Adm. Code 174.210) when requested by OSFM;

5) A notification related to removal or change-in-service (41 Ill. Adm. Code 175.820(d) and 175.830(a)(19));

6) A pass/fail determination and notification (Section 176.330(c)) (to be submitted to OSFM within 45 days after the receipt of laboratory data in connection with a site assessment); and

7) Proof of financial responsibility on an annual basis (Section 176.220).

b) Recordkeeping. Owners and operators must maintain the following information for the life of the UST (unless a shorter or longer period is provided in this subsection (b) or by the applicable Section cited or by other OSFM rule):

1) Documentation of operation of corrosion protection equipment and methods (41 Ill. Adm. Code 175.500 and 175.510).

2) Documentation of UST repairs (41 Ill. Adm. Code 175.700 and 175.710).

3) All records required to show compliance with release detection requirements (41 Ill. Adm. Code 175.600 through 175.650), with all tank

and piping precision test results kept for 2 years or at least until the next precision test, whichever is longer.

4) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.

5) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on site, including schedules of required calibration and maintenance provided by the release detection equipment manufacturer.

6) The results of any sampling, testing or monitoring not specified in subsections (a), (b), (f) and (g) of this Section.

7) Results of the site assessment conducted at removal or change-in-service (41 Ill. Adm. Code 175.800) and copies of the results of any other site assessment conducted pursuant to OSFM rules with all pass/fail determinations and notifications submitted to OSFM pursuant to Section 176.330.

8) Proof of financial responsibility submitted under Section 176.220.

9) Copies of all records submitted to OSFM under subsections (a), (f) and (g) of this Section.

c) Availability and Maintenance of Records. Owners or operators shall keep the records required in subsection (b) at the UST site or available to the OSFM inspector within 30 minutes or before OSFM completes its inspection, whichever is later, via fax, email or other transfer of information. Financial responsibility records may be maintained at the owner or operator's principal place of business and shall be produced within 10 days after OSFM request.

d) Owners or operators of unmanned sites will be given prior notification of inspection/audit of those sites.

e) Failure to maintain or produce the records required under this Section may result in OSFM's issuance of a red tag or revocation of a facility operating permit (green decal) for the tank or tanks or facility at issue (see 41 Ill. Adm. Code 177),

prohibiting any further operation of the facility or further deposit of regulated substances into a tank subject to a red tag.

f) Certification of UST Installation or Upgrade and Related Documentation

1) Contractors shall certify, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, that:

A) The installer has been certified or licensed by OSFM. If applicable, the contractor shall also certify that the installer has been certified by the tank and piping manufacturers.

B) The installation and/or upgrade has been performed in accordance with 41 Ill. Adm. Code 172 through 176.

C) All work listed in the manufacturer's installation checklist has been completed and submitted in accordance with this subsection (f), 41 Ill. Adm. Code 175.400 and 175.465, Section 176.420 (or compliance with applicable third-party standards or codes cited in OSFM rules as of the date of installation), and Section 176.440(f), if applicable.

2) Contractors shall complete the manufacturer's installation checklist for USTs, which shall be available at the time of final inspection. The owner and operator shall maintain a copy of the checklist on-site for the life of the UST.

3) In lieu of the contractor's certification, an owner or operator may provide OSFM with a certification from a licensed professional engineer with education and experience in UST installation stating that the UST installation or upgrade was inspected by that engineer and that the UST installation or upgrade was properly installed in accordance with manufacturer's recommendations and OSFM rules.

4) OSFM shall not issue a green decal pursuant to 41 Ill. Adm. Code 177.115 for the UST until OSFM has received the completed certification of UST installation or upgrade by the licensed contractor or the certification of proper installation or upgrade from a licensed professional engineer.

g) Results from precision tank and piping testing, cathodic protection testing, and interior lining testing shall be handled as follows:

1) All test results are to be issued to the facility and owner.

2) Test results that fail must be reported to OSFM within 3 working days.

3) All test results required due to Notice of Violation must be reported to OSFM within 3 working days.

4) All test results required to be submitted to OSFM must be submitted with a form provided by OSFM at www.state.il/OSFM/PetroChemSaf /home.htm, under "downloadable applications".

Section 176.440 Notification Requirements for Purposes of UST Registration

a) For any UST, with the exception of a UST containing heating oil for consumptive use on the premises where stored:

1) Any owner of a UST in operation at any time after January 1, 1974, and in the ground as of September 24, 1987, shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.

2) Where no owner/operator can be determined and a non-owner elects to voluntarily undertake responsibility for removal and cleanup, the party electing to proceed under this Part and 35 Ill. Adm. Code 734.105 shall submit a written verification of the election to proceed as a third party.

3) Any owner of a UST brought into operation on or after April 21, 1989 shall submit, within 30 days before bringing the tank into operation, a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf. This applies even if the UST was subject to a change-in-service under 41 Ill. Adm. Code 175.820(a) or (b) within the 30-day time period.

4) OSFM shall use the information required to be submitted under subsection (a) to determine whether a UST must be registered.

b) For a UST containing heating oil for consumptive use on the premises where stored:

1) Any owner of a heating oil UST greater than 1,100 gallons in capacity and in the ground as of July 11, 1990 shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.

2) Any owner of a heating oil UST greater than 110 gallons and less than or equal to 1,100 gallons in capacity and in the ground as of September 6, 1991 shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.

3) Any owner of a heating oil UST greater than 110 gallons in capacity installed after September 6, 1991 shall submit, within 30 days after bringing the tank into operation, a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf. This applies even if the UST was subject to a change-in-service under 41 Ill. Adm. Code 175.820(a) or (b) within the 30-day time period.

4) A heating oil tank used exclusively for storing heating oil for consumptive use on a farm or residence is not classified as a UST.

5) OSFM shall use the information required to be submitted by this subsection (b) to determine whether a UST must be registered.

c) Owners required to submit notices under subsection (a) or (b) shall provide notice for each tank they own. Owners may provide notice for more than one tank using one notification form, but owners who own tanks located at more than one facility shall file a separate notification form for each separate facility. The owner shall provide the proper street address for the owner and for each facility.

d) Owners shall provide all of the information required in subsections (a) and (b), on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf including any certification required of the owner by this Part.

e) Any owner of a UST installed on or after April 21, 1989 shall certify in the notification form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf compliance with the following requirements:

1) Installation of tanks under 41 Ill. Adm. Code 175.400, 175.405, 175.410 and 175.465, Sections 176.420 (or compliance with applicable third-party standards or codes as cited in OSFM rules as of the date of installation) and 176.430(f) and installation of piping under 41 Ill. Adm. Code 175.420;

2) Cathodic protection of steel tanks and piping under 41 Ill. Adm. Code 175.400(b), 175.420(a) and 175.510;

3) Release detection under 41 Ill. Adm. Code 175.610, 175.620, 175.630 and 175.640; and

4) Financial responsibility in accordance with Subpart B of this Part. The green decal (facility operating permit) shall not be issued for a new tank installation until the notification required by this Section has been received by OSFM.

f) Beginning January 1, 1989, all owners and operators of USTs being installed, upgraded or lined shall ensure that the contractor certifies in the notification form that the methods used to perform the UST activity comply with the requirements of 41 Ill. Adm. Code 174 through 176, and the contractor shall complete the certification. The notification form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf is to be submitted to OSFM within 30 days after completion of the activity requiring certification.

g) Any change in information stated in the form as described in subsections (a) and (b) is to be submitted to OSFM on an amended form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf, within 30 days, commencing from the date of the change. This includes, but is not limited to, removal, abandonment-in-place and temporary out-of-service status. A change in ownership is considered a change in information and each subsequent owner is required to report that change.

h) Commencing April 1, 1995, any person who sells a new or re-certified tank intended to be used as a UST shall notify the purchaser of the owner's notification obligations under this Section. The notification form provided by OSFM at

www.state.il/OSFM/PetroChemSaf/Notify.pdf shall be used to comply with this requirement.

Section 176.450 UST Registration Fees

a) For USTs, with the exception of USTs containing heating oil for consumptive use on the premises where stored, the owner of any petroleum or hazardous substance UST required to be registered with OSFM prior to September 24, 1987, and who did not do so, shall register and pay OSFM a registration fee of $500 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal. For purposes of this subsection, "owner" refers only to the last owner as of September 23, 1987.

b) For USTs containing heating oil greater than 110 gallons for consumptive use on the premises where stored:

1) The owner of any heating oil UST in the ground as of September 6, 1991 who first registered the tank with OSFM prior to July 2, 1992 shall pay to OSFM a registration fee of $100 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal.

2) The owner of any heating oil UST in the ground as of September 6, 1991 who first registered the tank with OSFM on or after July 2, 1992 (never having been registered) shall pay to OSFM a registration fee of $500 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal.

3) The owner who first registers a heating oil UST is responsible for the fee under either subsection (b)(1) or (b)(2), whichever is applicable, but not both.

4) The owner of any heating oil UST in the ground as of July 11, 1990, but removed prior to September 6, 1991, although regulated, is not required to pay a registration fee.

5) The owner of any heating oil UST installed in the ground on or after July 2, 1992, although regulated, is not required to pay a registration fee.

Section 176.460 Pre-'74 and Heating Oil USTs

USTs not in operation at any time after January 1, 1974 (commonly referred to as "pre-'74 USTs"), and non-farm and non-residential heating oil USTs for consumptive use on the premises where stored, remain classified as USTs and require a permit to be abandoned-in-place or removed and are subject to all other applicable UST requirements, except for those requirements specifically exempted by this Section or by Section 176.440.

a) Pursuant to Sections 2(3)(f) and 4(b)(1)(A) of the Gasoline Storage Act, pre-'74 USTs are not required to be registered and need not be removed, unless the OSFM has determined that a release from the USTs poses a current or potential threat to human health and the environment.

b) In accordance with Section 57.5(g) of the Illinois Environmental Protection Act [415 ILCS 5/57.5(g)] and Section 4 of the Gasoline Storage Act, a heating oil UST for consumptive use on the premises where stored, regardless of when last in operation, is not required to be removed unless OSFM has determined that a release from the UST poses a current or potential threat to human health and the environment. However, the UST is subject to the notification requirements, as well as compliance with all other applicable Sections of 41 Ill. Adm. Code 175 and this Part.

c) Heating oil USTs installed prior to April 1, 1995 are not required to meet the upgrade requirements for corrosion protection, spill and overfill prevention, and release detection in 41 Ill. Adm. Code 174 and 175 and this Part. Heating oil USTs installed after April 1, 1995 must meet all current upgrade requirements outlined in 41 Ill. Adm. Code 174 and 175 and this Part, including permitting.

d) If any pre-'74 tank, heating oil or otherwise, discovered during any activity is found to be damaged or is damaged at the time of discovery, it shall be removed. No structure shall be erected over pre-'74 tanks, heating oil or otherwise, and they must be removed by an OSFM-licensed contractor. All applicable permits apply.

Section 176.470 Requirements for Conducting Precision Testing of Tanks and Piping, Cathodic Protection Testing, and Testing of Other UST Equipment

Persons conducting precision testing of tanks and piping, cathodic protection testing, and testing of other UST equipment shall be ICC certified in the appropriate module and be licensed by

OSFM pursuant to 41 Ill. Adm. Code 172. All persons conducting precision testing must be certified by the manufacturer of the testing equipment being used.

a) Tank tightness methods shall be evaluated and listed by an independent third-party. Proof of evaluation and listing shall be demonstrated by the methods being published in the NWGLDE publication "List of Leak Detection Evaluations for Storage Tank Systems", incorporated by reference in 41 Ill. Adm. Code 174.210(a). All tank tightness methods are subject to approval by OSFM.

b) UST equipment (including all equipment other than that listed in subsections (a)(1) and (2)). To qualify as a tester under this subsection, an individual must be an employee of an OSFM-licensed contractor with at least one employee who is ICC certified in the appropriate module, with that ICC certified employee on site and actively supervising the work at all times. All testers must also be certified by the manufacturer in the testing of the equipment being evaluated for its operation in accordance with manufacturers' specifications.

c) For purposes of this Section, "license" (or any comparable variation of the term) is synonymous with "registration" (or any comparable variation of the term).

d) Each tester shall also abide by any other applicable requirements found in 41 Ill. Adm. Code 172.

SUBPART E: HEARINGS AND ENFORCEMENT PROCEDURES

Section 176.500 Definitions

"NOV" means a notice of violation issued by OSFM.

"Revocation of the Registration of an Underground Storage Tank System" means termination by OSFM of the registration of a UST.

Section 176.505 Enforcement Action

All enforcement action shall begin with the issuance of an NOV by OSFM. The violations cited on the NOV shall be corrected within 60 calendar days after the issuance of the NOV. A copy of the NOV shall be left with any owner, employee or agent of the owner at the facility at the time of inspection or may be mailed or served by other legal process in the case of a closed or unattended facility.

Section 176.510 Grounds and Time for Appeal

An Administrative Order issued pursuant to the Gasoline Storage Act, the Petroleum Equipment Contractors Licensing Act [225 ILCS 729], or OSFM rules promulgated pursuant to those Acts may be appealed in accordance with this Subpart. An appeal of an Administrative Order issued pursuant to this Section may only be requested within 10 days after receipt and must be in writing. (See Section 2(3)(e) of the Gasoline Storage Act.)

Section 176.515 Notice of Hearing

Notice of the time and place for any hearing shall be given to any party concerned at least 30 days prior to the hearing date. If an attorney, through written communication, is known to represent any party to a hearing, then notice is to be given to that attorney. Notice sent to the last known address by U.S. Mail, registered or certified, addressed to all parties concerned or their attorneys, when applicable, is sufficient.

Section 176.520 Continuances

A hearing officer may, for good cause, grant a continuance at the request of a party or a continuance on the hearing officer's own motion. Good cause may include, but is not limited to, death or hospitalization of a party or assigned counsel, natural disasters prohibiting attendance, and other unforeseen circumstances. Requests by a party for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance. At the direction of the hearing officer, a hearing may be adjourned to permit further testimony or argument when beneficial to the development of a clear and complete record. Scheduling conflicts of an attorney constitute grounds for a continuance only when the conflict is with another judicial body. Any grant by the Hearing Officer of a continuance sought by a party on less than two days notice prior to the assigned hearing date may be conditioned upon that party bearing any court reporting or other recording costs resulting from the continuance.

Section 176.525 Appearances

At hearings before OSFM, parties to a proceeding may represent themselves or may be represented by an attorney licensed to practice law in the State of Illinois. The failure of a party to be represented by an attorney does not constitute grounds for a rehearing; likewise, the choice by parties to be represented by themselves or designated individuals does not constitute such grounds. For each party to the hearing, a written appearance shall be filed at or before the start of the hearing.

Section 176.530 Service of Papers and Computation of Time

a) Persons filing papers with OSFM shall simultaneously serve copies on all parties to the proceeding.

b) If agreed between the parties, parties may serve copies of any filing on each other via email. Email service on the hearing officer is not permitted.

c) Papers required to be filed with OSFM shall be accompanied by proof of service upon all those required to be served.

d) All papers required to be filed with OSFM must be filed at its principal office at 1035 Stevenson Drive, Springfield, Illinois 62703, during business hours, or mailed to its principal office prior to the applicable deadline.

e) If the deadline for a filing falls on a holiday, Saturday or Sunday, the deadline for filing will automatically be extended to the next business day.

Section 176.535 Stipulations

a) It is the policy of OSFM that the parties to a proceeding should, to the fullest extent possible, stipulate all matters that are not, or fairly should not be, in dispute.

b) At the hearing, the parties may file a stipulation setting forth:

   1) All pertinent matters that are not in dispute;

   2) A list of all exhibits to which there are no objections;

   3) Matters that are in dispute.

Section 176.540 Evidence

a) *Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of Illinois shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.* [5 ILCS 100/10-40]

b) When objection is made to the admissibility of evidence, the Hearing Officer shall either receive the disputed evidence subject to ruling at a later time, or may exclude the evidence at that time. A party offering evidence that is ruled inadmissible shall be permitted to make a brief offer of proof.

c) Writings shall be legible and exhibits shall be plainly marked and identified. The hearing record shall reflect the identity of the party offering an exhibit and shall indicate whether it was admitted into evidence.

Section 176.545 Official Notice

The Hearing Officer may take official notice of all facts of which judicial notice may be taken, including facts of a technical nature within the specialized knowledge and experience of OSFM. This notice may include any of the content of any practice, standard or code that is by reference incorporated at 41 Ill. Adm. Code 174.210.

Section 176.550 Authority of Hearing Officer

The Hearing Officer shall have all powers necessary to conduct a hearing, avoid delay, maintain order, and insure the development of a clear and complete record, including the power to:

a) Administer oaths and affirmations;

b) Preside over the hearings, regulate the course of hearings, set the time for filing documents, and provide for the taking of testimony by deposition, when necessary;

c) Set the time and place for the continuance of a hearing once the hearing has commenced (Section 176.520 governs the continuance of a hearing prior to its commencement);

d) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify and be cross-examined;

e) Receive evidence, rule upon objections to admissibility of evidence, and rule upon offers of proof;

f) Issue subpoenas that require attendance, testimony or the production of papers, books, documentary evidence or other tangible things;

g) Dispose of procedural requests or similar matters;

h) Require prior submission of testimony and exhibits in writing and set any deadlines for the filing of documents;

i) Direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;

j) Reprimand or exclude from the hearing any person for indecorous or improper conduct committed in the presence of the Hearing Officer;

k) Order the parties to submit briefs on issues of first impression. These briefs shall be limited to 15 pages, including proposed findings of fact and conclusions of law, and shall be submitted after the close of evidence and proofs pursuant to the procedures of Section 176.560;

l) Render findings of fact, conclusions of law, opinions and recommendations for an Order of the State Fire Marshal;

m) Enter any Order that expedites the purpose of this Part; and

n) Generally conduct the hearing and all pre-hearing and post-hearing matters according to this Subpart.

Section 176.555 Default

a) Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the State Fire Marshal shall constitute a default and the administrative order appealed from shall become final. Any court reporting costs incurred because of the failure to appear may be assessed against the party that failed to appear.

b) Appeals, petitions, motions or other requests for relief that are not prosecuted diligently may be dismissed for want of prosecution.

Section 176.560 Post-Hearing Submissions

a) Unless otherwise directed by the Hearing Officer, the parties may submit written proposed findings of fact and conclusions of law (proposed findings) to the

Hearing Officer within 14 days after the close of the hearing or such other reasonable time as the Hearing Officer shall determine, consistent with the responsibility of the State Fire Marshal for an expeditious decision. Proposed findings shall not exceed 15 pages in length on regular 8½ by 11 inch paper with 1-inch margins. The proposed findings of fact and conclusions of law shall be separately stated.

b) All parties who wish to submit proposed findings, or are ordered by the Hearing Officer to submit briefs also containing proposed findings, must submit the following by the applicable deadline:

1) one original and two paper copies of the party's proposed findings of fact and conclusions of law. The two paper copies shall be identically compiled and stapled;

2) an electronic text version of the brief, in a format compatible with Microsoft Word, on a disc or other computer file memory storage device that is labeled with the name of the party and that does not have to be returned to that party;

3) a cover letter stating the party on whose behalf the brief is submitted.

Section 176.565 Transcripts

a) The proceedings at hearings shall be recorded electronically by OSFM and transcribed at the request and expense of the requesting party.

b) Any party can request a stenographer or court reporter at that party's expense. Upon agreement of the parties, the stenographer or court reporting costs may be divided equally. Parties who order copies of the transcript shall bear the cost of the copies.

c) Transcripts of a hearing will not be provided by OSFM to any party.

Section 176.570 Final Order

a) The execution of a written Order of OSFM will become effective immediately and will constitute a final administrative decision subject to the Administrative Review Law [735 ILCS 5/Art. III].

b) The parties and their attorneys shall be notified as soon as reasonably possible by sending them a copy of the Order by U.S. Mail, registered or certified, addressed to their last known address.

Section 176.575 License Suspension or Revocation and Assessment of Fines Against a Contractor

a) The violation by a contractor of a provision of 41 Ill. Adm. Code 175 or this Part, including standards incorporated by reference, may result in a suspension or revocation of that contractor's license for the following durations:

1) For the first violation committed, the license of any contractor may be suspended or revoked for up to one year.

2) For the second violation committed, the license of any contractor may be suspended for up to one year or may be revoked for up to two years.

3) For the third violation, and any violation thereafter, the license of any contractor may be suspended for up to one year or revoked permanently.

b) The violation by a contractor of a provision of 41 Ill. Adm. Code 172, including standards incorporated by reference, may result in a suspension or revocation of that contractor's license for the following durations:

1) For the first violation, the license of any contractor may be suspended for up to six months.

2) For the second violation, the license of any contractor may be suspended or revoked for up to one year.

3) For the third violation, the license of any contractor may be suspended for up to one year or revoked for up to two years.

4) For the fourth violation, and any violation thereafter, the license of any contractor may be revoked for up to 5 years.

c) Effects of Suspension or Revocation

1) A contractor whose license was suspended or revoked as a result of a violation involving one or more licensed activities is also prohibited, in a

like manner, for a like duration, from performing any other activity the contractor was licensed to perform.

2) During the period of a suspension or revocation, the contractor whose license was suspended or revoked may not be licensed to perform any other activity related to USTs.

3) A contractor whose license is suspended or revoked, may not perform any activity requiring a license under a permit issued prior to the suspension or revocation. In such a case, the contractor is not entitled to a refund of the permit fee and is not entitled to amend the permit or permit application to list another contractor.

4) A contractor whose license has been suspended or revoked may not continue to perform UST work requiring a license issued by OSFM during the period of suspension or revocation.

5) A contractor whose license has been suspended or revoked may not be employed as an agent or subcontractor of a licensed contractor to perform any activity for which a license is required.

6) Any officer of a corporation having a suspended or revoked license, or any owner or co-owner of any other business entity having a suspended or revoked license, shall not use alternative names or licenses to continue to do UST work requiring an OSFM issued license.

7) Upon conclusion of the revocation period, a contractor whose license was revoked may perform any activity the contractor was licensed to perform only by re-licensing (assuming the applicant is not otherwise prohibited from re-licensing).

8) If the period of suspension ends prior to the termination of any license period, the suspended contractor may resume performing the activity the contractor was licensed to perform for the remainder of any license period. If the period of suspension ends subsequent to the termination of any license period, the suspended contractor may not perform the activity the contractor was licensed to perform until the suspension period has ended and the contractor has been re-licensed (assuming the applicant is not otherwise prohibited from re-licensing).

d) The violation by a contractor or an employee of a contractor of a provision of 41 Ill. Adm. Code 172, 174, 175, 176, 177, 160 or 180, including standards incorporated by reference, may result in the assessment of fines against that contractor or employee.

Section 176.580 Assessment of Penalties

Any person who violates any of the provisions of 41 Ill. Adm. Code 172, 174, 175, 176, 177, 160 and 180 shall be subject to penalties as determined by statute or OSFM.

Section 176.585 Subpoena – Fees and Mileage of Witnesses

Witness and Mileage Fees. The cost of service and witness and mileage fees shall be borne by the person requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois.

Section 176.590 Paper Hearings

Parties and staff participating in a proceeding may stipulate to the waiver of any rights they have to a hearing and may stipulate to having all matters in dispute being resolved on the basis of written pleadings and submissions that are verified or supported by affidavit and to OSFM entering a final order in the matter in reliance on those documents.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

Section 176.APPENDIX A Derivation Table

The following table indicates the Sections of 41 Ill. Adm. Code 170 that formerly stated requirements identical or related to those now located within this Part 176.

New Section	Old Section
176.100	170.10, 170.400
176.200	170.700
176.205	170.710
176.210	170.720
176.215	170.730
176.220	170.740
176.225	170.750
176.230	170.760
176.235	170.770
176.240	170.780
176.245	170.790
176.250	170.795
176.300	170.560 and 170.580(e)
176.310	170.580
176.320	170.580
176.330	170.580(c), 170.610(e), 170.640(a), (c)
176.340	170.590
176.350	170.610
176.360	170.640
176.400	170.412
176.410	170.200, 170.427
176.420	170.150(d)(5), (6), 170.310(a)(2), 170.420(a), 170.421(a), (b), (d), 170.500(a)(3), 170.530(j), 170.540(a), (c)
176.430	170.420(e), 170.490, 170.544(b), 170.550, 170.660, 170.780
176.440	170.440
176.450	170.442
176.460	170.672
176.470	170.460(f), 170.480(e), 170.544
176.500	170.800
176.505	None
176.510	170.810
176.515	170.820(a)
176.520	170.820(b), (c)
176.525	170.830

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

176.530 ....None
176.535 ....None
176.540 ....None
176.545 ....170.840
176.550 ....170.850
176.555 ....None
176.560 ....170.870
176.565 ....170.880
176.570 ....170.890
176.575 ....170.910
176.580 ....170.920, 170.930, 170.940
176.585 ....None
176.590 ....None
176.APPENDIX A...........None

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Motion for Acceptance, Appearance of Attorney, Certification of Origination, Statement of Reasons, Synopsis of Testimony, Statement Regarding Material Incorporated by Reference, and the Proposed Amendments upon the persons to whom they are directed, by placing a copy of each in an envelope addressed to:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

Office of Legal Services
Illinois Dept. of Natural Resources
One Natural Resources Way
Springfield, Illinois 62702-1271

Division Chief of Environmental Enforcement
Illinois Attorney General's Office
100 W. Randolph St., Suite 1200
Chicago, Illinois 60601

and mailing them (First Class Mail) from Springfield, Illinois on 2-17, 2011 with sufficient postage affixed as indicated above.

Wanda McClendon

SUBSCRIBED AND SWORN TO BEFORE ME
This 17th day of February, 2011.

Brenda Boehner
Notary Public