

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported September 23, 1994 through June 23, 2002)

2) Code Citation: 35 Ill. Adm. Code 732

3) Section Numbers: Proposed Action:

732.100	Repeal
732.101	Repeal
732.102	Repeal
732.103	Repeal
732.104	Repeal
732.105	Repeal
732.106	Repeal
732.108	Repeal
732.110	Repeal
732.112	Repeal
732.114	Repeal
732.200	Repeal
732.201	Repeal
732.202	Repeal
732.203	Repeal
732.204	Repeal
732.300	Repeal
732.301	Repeal
732.302	Repeal
732.303	Repeal
732.304	Repeal
732.305	Repeal
732.306	Repeal
732.307	Repeal
732.308	Repeal
732.309	Repeal
732.310	Repeal
732.311	Repeal
732.312	Repeal
732.400	Repeal
732.401	Repeal
732.402	Repeal
732.403	Repeal
732.404	Repeal

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732.405	Repeal
732.406	Repeal
732.407	Repeal
732.408	Repeal
732.409	Repeal
732-410	Repeal
732.411	Repeal
732.500	Repeal
732.501	Repeal
732.502	Repeal
732.503	Repeal
732.504	Repeal
732.505	Repeal
732.600	Repeal
732.601	Repeal
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732.614	Repeal
732.700	Repeal
732.701	Repeal
732.702	Repeal
732.703	Repeal
732.704	Repeal
732.800	Repeal
732.810	Repeal
732.815	Repeal
732.820	Repeal
732.825	Repeal
732.830	Repeal
732.835	Repeal
732.840	Repeal

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732.845	Repeal
732.850	Repeal
732.855	Repeal
732.860	Repeal
732.865	Repeal
732.870	Repeal
732.875	Repeal
732.APPENDIX A	Repeal
732.APPENDIX B	Repeal
732.APPENDIX C	Repeal
732.APPENDIX D	Repeal
732.APPENDIX E	Repeal

- 4) Statutory Authority: Implementing Sections 22.12 and 57 - 57.19 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/22.12, 27, 28 and 57-57.19]
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) initiated this rulemaking by filing a proposal intended to update the Board's underground storage tank (UST) regulations to reflect the adoption of Public Act 96-908. Public Act 96-908 enacted a number of amendments to Title XVI of the Environmental Protection Act (Act), which addresses USTs.

In the Statement of Reasons filed with its original rulemaking proposal, IEPA noted that Part 732 applies to UST releases reported on or after September 23, 1994, but prior to June 24, 2002. IEPA states that, with adoption of Public Act 96-908, all releases subject to Title XVI of the Act that are closed on or after June 8, 2010, are subject to Part 734 of the Board's UST rules. *See* 415 ILCS 5/57.13 (2010). IEPA argues that, because of this change, Part 732 is no longer necessary and should be repealed.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: In the record of this rulemaking proceeding, IEPA stated that it "did not use a published study or research report in developing the proposed amendments" and therefore did not submit such material pursuant to the Board's procedural rules.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed repealer does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may download copies of the Board's opinion and order from the Board's Web site at www.ipcb.state.il.us and may also request copies by calling the Clerk's office at 312-814-3620.

The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should refer to Docket R11-22 and be addressed to:

John Therriault
Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: proposed repeal of Part 732 may impact any small business, small municipality, or not-for-profit corporation that owns or operates a UST or performs activities associated with the remediation of leaking USTs.
- B) Reporting, bookkeeping or other procedures required for compliance: the proposed repealer would repeal Part 732 and would not themselves generate any reporting, bookkeeping, or other procedures for compliance.
- C) Types of Professional skills necessary for compliance: the proposed repeal of Part 732 will itself require no professional skills beyond those currently required by existing UST regulations for compliance.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2011

The full text of the Proposed Repealer begins on the next page:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

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

SUBPART A: GENERAL

Section
732.100 Applicability
732.101 Election to Proceed under Part 732
732.102 Severability
732.103 Definitions
732.104 Incorporations by Reference
732.105 Agency Authority to Initiate Investigative, Preventive or Corrective
Action
732.106 Laboratory Certification
732.108 Licensed Professional Engineer or Licensed Professional Geologist
Supervision
732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures
and Certifications
732.112 Notification of Field Activities
732.114 LUST Advisory Committee

SUBPART B: EARLY ACTION

Section
732.200 General
732.201 Agency Authority to Initiate
732.202 Early Action
732.203 Free Product Removal
732.204 Application for Payment of Early Action Costs

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section
732.300 General
732.301 Agency Authority to Initiate
732.302 No Further Action Sites
732.303 Low Priority Sites
732.304 High Priority Sites
732.305 Plan Submittal and Review
732.306 Deferred Site Classification; Priority List for Payment
732.307 Site Evaluation
732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring
Wells
732.309 Site Classification Completion Report
732.310 Indicator Contaminants
732.311 Groundwater Remediation Objectives
732.312 Classification by Exposure Pathway Exclusion

SUBPART D: CORRECTIVE ACTION

Section
732.400 General
732.401 Agency Authority to Initiate
732.402 No Further Action Site
732.403 Low Priority Site
732.404 High Priority Site
732.405 Plan Submittal and Review
732.406 Deferred Corrective Action; Priority List for Payment
732.407 Alternative Technologies
732.408 Remediation Objectives
732.409 Groundwater Monitoring and Corrective Action Completion Reports
732.410 "No Further Remediation" Letter (Repealed)
732.411 Off-site Access †

SUBPART E: REVIEW OF PLANS, BUDGET PLANS, AND REPORTS

Section
732.500 General
732.501 Submittal of Plans or Reports (Repealed)
732.502 Completeness Review (Repealed)
732.503 Review of Plans, Budget Plans, or Reports
732.504 Selection of Plans or Reports for Full Review (Repealed)
732.505 Standards for Review of Plans, Budget Plans, or Reports

SUBPART F: PAYMENT FROM THE FUND

Section
732.600 General
732.601 Applications for Payment
732.602 Review of Applications for Payment
732.603 Authorization for Payment; Priority List
732.604 Limitations on Total Payments
732.605 Eligible Corrective Action Costs
732.606 Ineligible Corrective Action Costs
732.607 Payment for Handling Charges
732.608 Apportionment of Costs
732.609 Subrogation of Rights
732.610 Indemnification
732.611 Costs Covered by Insurance, Agreement or Court Order
732.612 Determination and Collection of Excess Payments
732.614 Audits and Access to Records; Records Retention

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section
732.700 General
732.701 Issuance of a No Further Remediation Letter
732.702 Contents of a No Further Remediation Letter
732.703 Duty to Record a No Further Remediation Letter
732.704 Voidance of a No Further Remediation Letter

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section
732.800 Applicability
732.810 UST Removal or Abandonment Costs
732.815 Free Product or Groundwater Removal and Disposal

732.820 Drilling, Well Installation, and Well Abandonment
 732.825 Soil Removal and Disposal
 732.830 Drum Disposal
 732.835 Sample Handling and Analysis
 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures
 732.845 Professional Consulting Services
 732.850 Payment on Time and Materials Basis
 732.855 Bidding
 732.860 Unusual or Extraordinary Circumstances
 732.865 Handling Charges
 732.870 Increase in Maximum Payment Amounts
 732.875 Agency Review of Payment Amounts

732.APPENDIX A Indicator Contaminants
 732.APPENDIX B Additional Parameters
 732.APPENDIX C Backfill Volumes
 732.APPENDIX D Sample Handling and Analysis
 732.APPENDIX E Personnel Titles and Rates
~~732.TABLE A Groundwater and Soil Remediation Objectives~~
~~732.TABLE B Soil remediation Methodology: Model Parameter Values~~
~~732.TABLE C Soil remediation Methodology: Chemical Specific Parameters~~
~~732.TABLE D Soil remediation Methodology: Objectives~~
 732-ILLUSTRATION
 A Equation for Groundwater Transport (Repealed)
 732-ILLUSTRATION B Equation for Soil-Groundwater Relationship (Repealed)
 732-ILLUSTRATION C Equation for Calculating Groundwater Objectives at the Source (Repealed)
 732-ILLUSTRATION D Equation for Calculating Soil Objectives at the Source (Repealed)
732.TABLE A Groundwater and Soil Remediation Objectives (Repealed)
732.TABLE B Soil Remediation Methodology: Model Parameter Values (Repealed)
732.TABLE C Soil Remediation Methodology: Chemical Specific Parameters (Repealed)
732.TABLE D Soil Remediation Methodology: Objectives (Repealed)

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, 16131~~, effective November 21, 2007; repealed ~~in R11-22~~ at ~~3635~~ Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 732.100 Applicability ~~(Repealed)~~

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 overflow 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.

Section 732.101 Election to Proceed under Part 732 ~~(Repealed)~~

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.

Section 732.102 Severability ~~(Repealed)~~

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 ~~(Repealed)~~

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.

Section 732.104 Incorporations by Reference ~~(Repealed)~~

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 μ m) 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 (September 1986), 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.

Section 732.105 Agency Authority to Initiate Investigative, Preventive or Corrective Action ~~(Repealed)~~

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(c) 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 ~~(Repealed)~~

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~~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.

Section 732.108 Licensed Professional Engineer or Licensed Professional Geologist Supervision ~~(Repealed)~~

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.

Section 732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications—~~(Repealed)~~

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.

Section 732.112 Notification of Field Activities—~~(Repealed)~~

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.

Section 732.114 LUST Advisory Committee—~~(Repealed)~~

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.

SUBPART B: EARLY ACTION

Section 732.200 General ~~(Repealed)~~

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.

Section 732.201 Agency Authority to Initiate ~~(Repealed)~~

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 ~~(Repealed)~~

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 as 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.

Section 732.203 Free Product Removal ~~(Repealed)~~

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.

Section 732.204 Application for Payment of Early Action Costs—~~(Repealed)~~

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.

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section 732.300 General ~~(Repealed)~~

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.

Section 732.301 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 C.

Section 732.302 No Further Action Sites~~(Repealed)~~

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.

Section 732.303 Low Priority Sites ~~(Repealed)~~

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.

Section 732.304 High Priority Sites ~~(Repealed)~~

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.

Section 732.305 Plan Submittal and Review ~~(Repealed)~~

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.

Section 732.306 Deferred Site Classification; Priority List for Payment

~~(Repealed)~~

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.

Section 732.307 Site Evaluation ~~(Repealed)~~

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~~in-situ 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.

Section 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells ~~(Repealed)~~

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.

Section 732.309 Site Classification Completion Report ~~(Repealed)~~

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.

Section 732.310 Indicator Contaminants ~~(Repealed)~~

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.

Section 732.311 Groundwater Remediation ~~Objective (Repealed)s~~ 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.

Section 732.312 Classification by Exposure Pathway Exclusion ~~(Repealed)~~

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.

SUBPART D: CORRECTIVE ACTION

Section 732.400 General ~~(Repealed)~~

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.

Section 732.401 Agency Authority to Initiate ~~(Repealed)~~

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 ~~(Repealed)~~

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.

Section 732.403 Low Priority Site ~~(Repealed)~~

- 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.

Section 732.404 High Priority Site ~~(Repealed)~~

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.

Section 732.405 Plan Submittal and Review ~~(Repealed)~~

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.

Section 732.406 Deferred Corrective Action; Priority List for Payment
~~(Repealed)~~

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.

Section 732.407 Alternative Technologies ~~(Repealed)~~

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.

Section 732.408 Remediation Objectives ~~(Repealed)~~

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 (?b)

Soil particle density (?s)

Moisture content (w)

Organic carbon content (foc)

~~Board Note~~ 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.

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports
~~(Repealed)~~

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.

Section 732.410 "No Further Remediation" Letter (Repealed)

Section 732.411 Off-~~Site~~site Access ~~(Repealed)~~

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.

SUBPART E: ~~SELECTION AND~~ REVIEW ~~PROCEDURES FOR~~ PLANS, BUDGET PLANS, AND REPORTS

Section 732.500 General ~~(Repealed)~~

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.

Section 732.501 Submittal of Plans or Reports (Repealed)

Section 732.502 Completeness Review (Repealed)

Section 732.503 Review of Plans, Budget Plans, or Reports ~~(Repealed)~~

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.

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

Section 732.505 Standards for Review of Plans, Budget Plans, or Reports
~~(Repealed)~~

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 or principles of professional geology. 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 or principles of professional geology, 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 or Licensed Professional Geologist 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 or Licensed Professional Geologist'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 ~~are 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, and must not exceed the maximum payment amounts set forth in Subpart H of this Part.

SUBPART F: PAYMENT OR REIMBURSEMENT

Section ~~732.600~~ 732.600 General ~~(Repealed)~~

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 ~~(Repealed)~~

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.

Section 732.602 Review of Applications for Payment ~~(Repealed)~~

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.

Section 732.603 Authorization for Payment; Priority List ~~(Repealed)~~

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.

Section 732.604 Limitations on Total Payments ~~(Repealed)~~

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	Amount	Number	of Tanks
\$1,000,000			fewer than 101	
101 <u>12,000,000</u>	101 <u>101</u>	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)].

Section 732.605 Eligible Corrective Action Costs ~~(Repealed)~~

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.

Section 732.606 Ineligible Corrective Action Costs ~~(Repealed)~~

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;

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.

Section 732.607 Payment for Handling Charges ~~(Repealed)~~

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 ChargesPurchase	Field ChargesPurchase	Eligible Cost:	Field Cost:	Eligible as a Percentage of Cost:	Handling Cost:
\$5,000	125,000	\$0 -	
12%\$5,001 - \$15,000	15,000	\$600 +	
10% of amt. over \$5,000	\$15,001 -				
\$50,000	50,000	\$1,600 + 8% of amt.	
over \$15,000	\$50,001 -				
\$100,000	100,000	\$4,400 + 5% of amt. over	
\$50,000	\$100,001 - \$1,000,000	1,000,000	\$6,900 + 2%	
of amt. over \$100,000					

Section 732.608 Apportionment of Costs ~~(Repealed)~~

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.

Section 732.609 Subrogation of Rights ~~(Repealed)~~

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)].

Section 732.610 Indemnification ~~(Repealed)~~

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.

Section 732.611 Costs Covered by Insurance, Agreement or Court Order ~~(Repealed)~~

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 ~~(Repealed)~~

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].

Section 732.614 Audits and Access to Records; Records Retention—~~(Repealed)~~

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) Owners⁷ 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.

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section 732.700 General ~~(Repealed)~~

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.

Section 732.701 Issuance of a No Further Remediation Letter ~~(Repealed)~~

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 appeal 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.

Section 732.702 Contents of a No Further Remediation Letter ~~(Repealed)~~

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 avoidance 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.

Section 732.703 Duty to Record a No Further Remediation Letter ~~(Repealed)~~

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 avoidance 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.

Section 732.704 Avoidance of a No Further Remediation Letter ~~(Repealed)~~

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 avoidance 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.

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 732.800 Applicability ~~(Repealed)~~

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.

Section 732.810 UST Removal or Abandonment Costs—~~(Repealed)~~

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 Volume	Maximum Total Amount per UST
- 999 gallons	\$2,100	\$1,000 - 14,999
gallons	\$3,150	\$15,000 or more gallons
\$4,100		

Section 732.815 Free Product or Groundwater Removal and Disposal—~~(Repealed)~~

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.

Section 732.820 Drilling, Well Installation, and Well Abandonment—~~(Repealed)~~

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 Drilling	Maximum Total Amount	Hollow	Amount	Hollow
stem auger	greater	auger	greater	of \$23 per foot or \$1,500	Direct-push
platform_ for sampling or other	greater	other	greater	of \$18 per foot or \$1,200	non-injection purposes_ for injection purposes
greater 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~~ ~~MaximumBoreholeMaximum~~ Total ~~AmountHollowAmountHollow~~
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~~ ~~MaximumDiameterMaximum~~ 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.

Section 732.825 Soil Removal and Disposal—~~(Repealed)~~

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.

Section 732.830 Drum Disposal ~~(Repealed)~~

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 Contents Maximum	Total Amount per
Drum <u>Solid</u> Drum <u>Solid</u> waste		\$250 Liquid
waste	\$150	

Section 732.835 Sample Handling and Analysis ~~(Repealed)~~

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.

Section 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures ~~(Repealed)~~

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 Material Maximum	Total
Amount per <u>Amount per</u> Square Foot Asphalt <u>Foot Asphalt</u> and paving -		2 inches
\$1.653 <u>\$1.653</u> inches	\$1.864 <u>\$1.864</u> 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 Material Maximum	Total Amount
per <u>Amount per</u> Square Foot Asphalt <u>Foot Asphalt</u> and paving -		2 inches
\$1.65 <u>\$1.653</u> inches	\$1.86 <u>\$1.864</u> inches	\$2.38
6 <u>\$2.386</u> inches	\$3.08 Concrete -	2 inches \$2.45
3 <u>\$2.453</u> inches	\$2.93 <u>\$2.934</u> inches	\$3.41 <u>\$3.415</u> inches
\$3.89 <u>\$3.896</u> inches	\$4.36 <u>\$4.368</u> 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.

Section 732.845 Professional Consulting Services—~~(Repealed)~~

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.

Section 732.850 Payment on Time and Materials Basis—~~(Repealed)~~

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.

Section 732.855 Bidding—~~(Repealed)~~

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.

Section 732.860 Unusual or Extraordinary Circumstances—~~(Repealed)~~

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.

Section 732.865 Handling Charges—~~(Repealed)~~

Payment of handling charges must not exceed the amounts set forth in Section 732.607 of this Part.

Section 732.870 Increase in Maximum Payment Amounts—~~(Repealed)~~

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 1/100th. 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~~payment 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.

Section 732.875 Agency Review of Payment Amounts ~~(Repealed)~~

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.

Section 732.APPENDIX A Indicator Contaminants ~~(Repealed)~~

TANK CONTENTSINDICATOR ~~CONTAMINANTSGASOLINE~~ CONTAMINANTS GASOLINE
~~leaded(1)~~, Leaded1, unleaded, premium, and ~~gasohol~~ gasohol Benzene

Ethylbenzene

Toluene

Xylene

Methyl tertiary butyl ether (MTBE)

MIDDLE DISTILLATE AND HEAVY ENDSaviation turbine fuels~~(1)~~

jet fuelsBenzene

Ethylbenzene

Toluene

Xylene diesel fuelsAcenaphthenegas turbine fuel oilsAnthraceneheating fuel

oilsBenzo (a)anthraceneilluminating oilsBenzo (a)pyrenekeroseneBenzo

(b)fluoranthene lubricantsBenzo (k)fluoranthene liquid asphalt and dust laying

oilsChrysenecable ~~oilsdibenzo~~ oilsDibenzo (a,h)anthracenecrude oil, crude oil

fractionsFluoranthene petroleum feedstocksFluorene petroleum fractionsIndeno

(1,2,3-c,d)pyreneheavy ~~oilsNaphthalene transformer oils(2)~~ Pyrene hydraulic

~~fluids(3)~~ Acenaphthylene petroleum spirits(oilsNaphthalene transformer

oils2Pyrene hydraulic fluids3Acenaphthylene petroleum

spirits4) Benzo (g,h,i)perylene mineral spirits~~(4)~~, 4, Stoddard

solvents~~(4)~~ Phenanthrene high-flash aromatic naphthas~~(4)~~ VM&P naphthas~~(4)~~ moderately

volatile hydrocarbon solvents~~(4)~~ petroleum extender oils~~(4)~~

USED OILScreening 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)

Section 732.APPENDIX B Additional Parameters ~~(Repealed)~~

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.Flourene 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)

Section 732.APPENDIX C Backfill Volumes ~~(Repealed)~~

Volume of Tank in Gallons Maximum amount of backfill material to be removed: ~~Cubic yards~~
Maximum amount of backfill material to be replaced: ~~Cubic yards~~
~~<285285 to 299300 to 559560 to 999~~ Cubic yards Cubic yards < 2855456285 to
2995557300 to 5595658560 to 99967701000 to 104981871050 to 114989961150 to
1999941012000 to 24991121242500 to 29991281433000 to 39991431614000 to
49991751985000 to 59991892196000 to 74991982357500 to 82992062508300 to
999921926810,000 to 11,99925231212,000 to 14,999286357>15,000345420
~~1000 to 1049~~
~~1050 to 1149~~
~~1150 to 1999~~
~~2000 to 2499~~
~~2500 to 2999~~
~~3000 to 3999~~
~~4000 to 4999~~
~~5000 to 5999~~
~~6000 to 7499~~
~~7500 to 8299~~
~~8300 to 9999~~
~~10,000 to 11,999~~
~~12,000 to 14,999~~
~~>15,000-54~~
55
56
67
81
89
94
112
128
143
175
189

198
 206
 219
 252
 286
 34556
 57
 58
 70
 87
 96
 101
 124
 143
 161
 198
 219
 235
 250
 268
 312
 357
 420

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

Section 732.APPENDIX D Sample Handling and Analysis—~~(Repealed)~~

Max. Total Amount

per Sample	Chemical	BETX Soil with MTBE	\$85	BETX Water with MTBE
\$81	COD (Chemical Oxygen Demand)		\$30	Corrosivity
	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.Appendix B <u>Appendix B</u> 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
			\$14	Phenol
\$34	Polynuclear Aromatics PNA, or PAH SOIL		\$152	Polynuclear Aromatics PNA, or PAH WATER
		\$152	Reactivity	\$68
	volatile Organic Compounds)		\$313	SVOC - Water (Semi-volatile Organic Compounds)
		\$313	TKN (Total Kjeldahl "nitrogen"	\$44
	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
D4643-87	\$12	Porosity	\$255	Moisture Content ASTM D2216-90 /
\$350	Sieve / Particle Size Analysis ASTM D422-63 / D1140-54		\$145	Soil Classification ASTM D2488-90 / D2487-90
			\$68	Metals <u>Arsenic</u>
<u>Metals</u>	<u>Arsenic</u> 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
			\$10	Chromium Total
\$16	Cadmium Water	\$18	Chromium TCLP Soil	\$10
			\$12	Cyanide TCLP Soil
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
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
Soil (one fee per sample)	\$119 Soil preparation for Metals TCLP	
(one fee per sample)	\$79 Soil preparation for Metals Total Soil	
\$11 Other En	\$16 Water preparation for Metals Water (one fee per	
Other En	sample)	
Core (r) 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*	

Section 732.APPENDIX E Personnel Titles and Rates ~~-(Repealed)~~

Title	Degree Required	Ill. License
Req'd.	Min. Yrs.	Experience
Max.		
Hourly		
Rate	Engineer I	
	Engineer II	
	Engineer III	
	Professional Engineer	
	Senior Prof. Engineer	Bachelor's in Engineering
		Bachelor's in Engineering
		Bachelor's in Engineering
		Bachelor's in Engineering
		Bachelor's in Engineering
		None
		None
		None
		P.E.
		P.E. 0
		2
		4
		4
		8\$75
		\$85
		\$100
		\$110
	\$130	Geologist I
		Geologist II
		Geologist III
		Professional Geologist
		Senior Prof. Geologist
		Bachelor's in Geology or Hydrogeology
		Bachelor's in Geology or Hydrogeology
		Bachelor's in Geology or Hydrogeology
		Bachelor's in Geology or Hydrogeology
		Bachelor's in Geology or Hydrogeology
		None
		None
		None
		P.G.
		P.G. 0
		2
		4

4
8\$70
\$75
\$88
\$92
\$110Scientist I
Scientist II
Scientist III
Scientist IV
Senior ScientistBachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical ScienceNone
None
None
None
None0
2
4
6
8\$60
\$65
\$70
\$75
\$85Project Manager
Senior Project ManagerNone
NoneNone
None81
121\$90
\$100Technician I
Technician II
Technician III
Technician IV
Senior TechnicianNone
None
None
None
NoneNone
None
None
None
None0
21
41
61
81\$45
\$50
\$55
\$60
\$65Account Technician I
Account Technician II
Account Technician III
Account Technician IV
Senior Acct. TechnicianNone
None
None

None
NoneNone
None
None
None
None0
22
42
62
82\$35
\$40
\$45
\$50
\$55Administrative Assistant I
Administrative Assistant II
Administrative Assistant III
Administrative Assistant IV
Senior Admin. AssistantNone
None
None
None
NoneNone
None
None
None
None0
23
43
63
83\$25
\$30
\$35
\$40
\$45Draftperson/CAD I
Draftperson/CAD II
Draftperson/CAD III
Draftperson/CAD IV
Senior Draftperson/CADNone
None
None
None
NoneNone
None
None
None
None0
24
44
64
84\$40
\$45
\$50
\$55
\$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.

JCAR350732-1116191r01

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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Statistics:	
	Count
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Deletions	266
Moved from	4
Moved to	4
Style change	0
Format changed	0
Total changes	384

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

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STATE OF ILLINOIS
Pollution Control Board

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

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732.102	Severability
732.103	Definitions
732.104	Incorporations by Reference
732.105	Agency Authority to Initiate Investigative, Preventive or Corrective Action
732.106	Laboratory Certification
732.108	Licensed Professional Engineer or Licensed Professional Geologist Supervision
732.110	Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications
732.112	Notification of Field Activities
732.114	LUST Advisory Committee

SUBPART B: EARLY ACTION

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732.201	Agency Authority to Initiate
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732.203	Free Product Removal
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732.301	Agency Authority to Initiate
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- 46 732.307 Site Evaluation
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- 48 732.309 Site Classification Completion Report
- 49 732.310 Indicator Contaminants
- 50 732.311 Groundwater Remediation Objectives
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52

53

SUBPART D: CORRECTIVE ACTION

54

55 Section

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SUBPART E: REVIEW OF PLANS, BUDGET PLANS, AND REPORTS

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- 75 732.503 Review of Plans, Budget Plans, or Reports
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80

81 Section

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133	732.ILLUSTRATION C	Equation for Calculating Groundwater Objectives at the Source (Repealed)
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136	732.TABLE A	Groundwater and Soil Remediation Objectives (Repealed)
137	732.TABLE B	Soil Remediation Methodology: Model Parameter Values (Repealed)
138		
139	732.TABLE C	Soil Remediation Methodology: Chemical Specific Parameters (Repealed)
140		
141	732.TABLE D	Soil Remediation Methodology: Objectives (Repealed)
142		

143 AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of
 144 the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17].
 145

146 SOURCE: Adopted in R94-2 at 18 Ill. Reg. 15008, effective September 23, 1994; amended in
 147 R97-10 at 21 Ill. Reg. 3617, effective July 1, 1997; amended in R01-26 at 26 Ill. Reg. 7119,
 148 effective April 29, 2002; amended in R04-22/23 at 30 Ill. Reg. 4928, effective March 1, 2006;
 149 amended in R07-17 at 31 Ill. Reg. 16131, effective November 21, 2007; repealed at 35 Ill. Reg.
 150 _____, effective _____.
 151

152 SUBPART A: GENERAL

153
 154 **Section 732.100 Applicability**
 155

- 156 a) This Part applies to owners or operators of any underground storage tank system
 157 used to contain petroleum and for which a release was reported to Illinois
 158 Emergency Management Agency (IEMA) on or after September 23, 1994, but
 159 prior to June 24, 2002, in accordance with regulations adopted by the Office of
 160 the State Fire Marshal (OSFM). It also applies to owners or operators that, prior
 161 to June 24, 2002, elected to proceed in accordance with this Part pursuant to
 162 Section 732.101 of this Part. This Part does not apply to owners or operators of
 163 sites for which the OSFM does not require a report to IEMA or for which the
 164 OSFM has issued or intends to issue a certificate of removal or abandonment
 165 pursuant to Section 57.5 of the Act.
 166
- 167 b) Upon the receipt of a corrective action order issued by the OSFM prior to June 24,
 168 2002, and pursuant to Section 57.5(g) of the Act, where the OSFM has
 169 determined that a release poses a threat to human health or the environment, the
 170 owner or operator of any underground storage tank system used to contain
 171 petroleum and taken out of operation before January 2, 1974, or any underground
 172 storage tank system used exclusively to store heating oil for consumptive use on

173 the premises where stored and which serves other than a farm or residential unit
 174 shall conduct corrective action in accordance with this Part.
 175

176 c) Owners or operators subject to this Part by law or by election shall proceed
 177 expeditiously to comply with all requirements of the Act and the regulations and
 178 to obtain the No Further Remediation Letter signifying final disposition of the site
 179 for purposes of this Part. The Agency may use its authority pursuant to the Act
 180 and Section 732.105 of this Part to expedite investigative, preventive or corrective
 181 action by an owner or operator or to initiate such action.
 182

183 d) The following underground storage tank systems are excluded from the
 184 requirements of this Part:
 185

- 186 1) Equipment or machinery that contains petroleum substances for
 187 operational purposes such as hydraulic lift tanks and electrical equipment
 188 tanks.
 189
- 190 2) Any underground storage tank system whose capacity is 110 gallons or
 191 less.
 192
- 193 3) Any underground storage tank system that contains a de minimis
 194 concentration of petroleum substances.
 195
- 196 4) Any emergency spill or overfill containment underground storage tank
 197 system that is expeditiously emptied after use.
 198
- 199 5) Any wastewater treatment tank system that is part of a wastewater
 200 treatment facility regulated under Section 402 or 307(b) of the Clean
 201 Water Act (33 USC 1251 *et seq.*).
 202
- 203 6) Any UST system holding hazardous waste listed or identified under
 204 Subtitle C of the Solid Waste Disposal Act (42 USC 3251 *et seq.*) or a
 205 mixture of such hazardous waste or other regulated substances.
 206

207 e) Owners or operators subject to this Part may, pursuant to 35 Ill. Adm. Code
 208 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this
 209 Part.
 210

211 **Section 732.101 Election to Proceed under Part 732**
 212

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

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

222
 223 b) Prior to June 24, 2002, except as provided in Section 732.100(b) of this Part,
 224 owners or operators of underground storage tanks (USTs) used exclusively to
 225 store heating oil for consumptive use on the premises where stored and that serve
 226 other than a farm or residential unit were able to elect to proceed in accordance
 227 with this Part by submitting to the Agency a written statement of such election
 228 signed by the owner or operator. The election became effective upon receipt by
 229 the Agency and shall not be withdrawn. However, an owner or operator that
 230 elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm.
 231 Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead
 232 of this Part.

233
 234 c) If the owner or operator elected to proceed pursuant to this Part, corrective action
 235 costs incurred in connection with the release and prior to the notification of
 236 election shall be payable from the Fund in the same manner as was allowable
 237 under the law applicable to the owner or operator prior to the notification of
 238 election. Corrective action costs incurred after the notification of election shall be
 239 payable from the Fund in accordance with this Part. Corrective action costs
 240 incurred on or after the effective date of an election to proceed in accordance with
 241 35 Ill. Adm. Code 734 shall be payable from the Fund in accordance with that
 242 Part.

243
 244 **Section 732.102 Severability**

245
 246 If any provision of this Part or its application to any person or under any circumstances is
 247 adjudged invalid, such adjudication shall not affect the validity of this Part as a whole or of any
 248 portion not adjudged invalid.

249
 250 **Section 732.103 Definitions**

251
 252 Except as stated in this Section, or unless a different meaning of a word or term is clear from the
 253 context, the definitions of words or terms in this Part shall be the same as that applied to the
 254 same words or terms in the Environmental Protection Act [415 ILCS 5].

255
 256 "Act" means the Environmental Protection Act [415 ILCS 5].

257
 258 "Agency" means the Illinois Environmental Protection Agency.

259
260 "Alternative Technology" means a process or technique, other than conventional
261 technology, used to perform a corrective action with respect to soils contaminated
262 by releases of petroleum from an underground storage tank.
263

264 "Board" means the Illinois Pollution Control Board.
265

266 "*Bodily Injury*" means *bodily injury, sickness, or disease sustained by a person,*
267 *including death at any time, resulting from a release of petroleum from an*
268 *underground storage tank* [415 ILCS 5/57.2].
269

270 "Class I Groundwater" means *groundwater that meets the Class I: potable*
271 *resource groundwater criteria set forth in the Board regulations adopted*
272 *pursuant to the Illinois Groundwater Protection Act* [415 ILCS 5/57.2].
273

274 "Class III Groundwater" means *groundwater that meets the Class III: special*
275 *resource groundwater criteria set forth in the Board regulations adopted*
276 *pursuant to the Illinois Groundwater Protection Act* [415 ILCS 5/57.2].
277

278 "Community water supply" means *a public water supply which serves or is*
279 *intended to serve at least 15 service connections used by residents or regularly*
280 *serves at least 25 residents* [415 ILCS 5/3.145].
281

282 "Confirmed Exceedence" means laboratory verification of an exceedence of the
283 applicable remediation objectives.
284

285 "Confirmation of a Release" means the confirmation of a release of petroleum in
286 accordance with regulations promulgated by the Office of the State Fire Marshal
287 at 41 Ill. Adm. Code 170.
288

289 "Confirmed Release" means a release of petroleum that has been confirmed in
290 accordance with regulations promulgated by the Office of the State Fire Marshal
291 at 41 Ill. Adm. Code 170.
292

293 "Conventional Technology" means a process or technique to perform a corrective
294 action by removal, transportation and disposal of soils contaminated by a release
295 of petroleum from an underground storage tank in accordance with applicable
296 laws and regulations, but without processing to remove petroleum from the soils.
297

298 "*Corrective action*" means *activities associated with compliance with the*
299 *provisions of Sections 57.6 and 57.7 of the Act* [415 ILCS 5/57.2].
300

301 "County Highway" means county highway as defined in the Illinois Highway
302 Code [605 ILCS 5].
303

304 "District Road" means a district road as defined in the Illinois Highway Code
305 [605 ILCS 5].
306

307 "Environmental Land Use Control" means Environmental Land Use Control as
308 defined in 35 Ill. Adm. Code 742.200.
309

310 "Federal Landholding Entity" means that federal department, agency or
311 instrumentality with the authority to occupy and control the day-to-day use,
312 operation and management of Federally Owned Property.
313

314 "Federally Owned Property" means real property owned in fee simple by the
315 United States on which an institutional control is or institutional controls are
316 sought to be placed in accordance with this Part.
317

318 "Fill Material" *means non-native or disturbed materials used to bed and backfill*
319 *around an underground storage tank* [415 ILCS 5/57.2].
320

321 "Financial Interest" means any ownership interest, legal or beneficial, or being in
322 the relationship of director, officer, employee, or other active participant in the
323 affairs of a party. Financial interest does not include ownership of publicly traded
324 stock.
325

326 "Free Product" means a contaminant that is present as a non-aqueous phase liquid
327 for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in
328 water).
329

330 "Full Accounting" means a compilation of documentation to establish,
331 substantiate and justify the nature and extent of the corrective action costs
332 incurred by an owner or operator.
333

334 "Fund" *means the Underground Storage Tank Fund* [415 ILCS 5/57.2].
335

336 "GIS" means Geographic Information System.
337

338 "GPS" means Global Positioning System.
339

340 "Groundwater" *means underground water which occurs within the saturated zone*
341 *and geologic materials where the fluid pressure in the pore space is equal to or*
342 *greater than atmospheric pressure* [415 ILCS 5/3.210].
343

344 "Half-day" means four hours, or a fraction thereof, of billable work time. Half-
345 days must be based upon the total number of hours worked in one calendar day.
346 The total number of half-days per calendar day may exceed two.
347

348 "Handling Charges" means administrative, insurance, and interest costs and a
349 reasonable profit for procurement, oversight, and payment of subcontracts and
350 field purchases.
351

352 "Heating Oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No.
353 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; and other residual fuel
354 oils including navy special fuel oil and bunker C. [415 ILCS 5/57.2]
355

356 "Highway Authority" means the Illinois Department of Transportation with
357 respect to a State highway; the Illinois State Toll Highway Authority with respect
358 to a toll highway; the county board with respect to a county highway or a county
359 unit district road if a discretionary function is involved and the county
360 superintendent of highways if a ministerial function is involved; the highway
361 commissioner with respect to a township or district road not in a county or unit
362 road district; or the corporate authorities of a municipality with respect to a
363 municipal street [605 ILCS 5/2-213].
364

365 "Highway Authority Agreement" means an agreement with a highway authority
366 that meets the requirements of 35 Ill. Adm. Code 742.1020.
367

368 "IEMA" means the Illinois Emergency Management Agency.
369

370 "Indemnification" means indemnification of an owner or operator for the amount
371 of judgment entered against the owner or operator in a court of law, for the
372 amount of any final order or determination made against the owner or operator
373 by any agency of State government or any subdivision thereof, or for the amount
374 of any settlement entered into by the owner or operator, if the judgment, order,
375 determination, or settlement arises out of bodily injury or property damage
376 suffered as a result of a release of petroleum from an underground storage tank
377 owned or operated by the owner or operator [415 ILCS 5/57.2].
378

379 "Indicator Contaminants" means the indicator contaminants set forth in Section
380 732.310 of this Part.
381

382 "Institutional Control" means a legal mechanism for imposing a restriction on
383 land use as described in 35 Ill. Adm. Code 742, Subpart J.
384

385 "Land Use Control Memorandum of Agreement" means an agreement entered
386 into between one or more agencies of the United States and the Illinois

387 Environmental Protection Agency that limits or places requirements upon the use
388 of Federally Owned Property for the purpose of protecting human health or the
389 environment, or that is used to perfect a No Further Remediation Letter that
390 contains land use restrictions.

391
392 "Licensed Professional Engineer" *means a person, corporation or partnership*
393 *licensed under the laws of the State of Illinois to practice professional*
394 *engineering [415 ILCS 5/57.2].*

395
396 "Licensed Professional Geologist" *means a person licensed under the laws of the*
397 *State of Illinois to practice as a professional geologist [415 ILCS 5/57.2].*

398
399 "Man-made Pathway" means constructed routes that may allow for the transport
400 of mobile petroleum free-liquid or petroleum-based vapors including, but not
401 limited to, sewers, utility lines, utility vaults, building foundations, basements,
402 crawl spaces, drainage ditches or previously excavated and filled areas.

403
404 "Monitoring Well" means a water well intended for the purpose of determining
405 groundwater quality or quantity.

406
407 "Natural Pathway" means natural routes for the transport of mobile petroleum
408 free-liquid or petroleum-based vapors including, but not limited to, soil,
409 groundwater, sand seams and lenses, and gravel seams and lenses.

410
411 "Non-community Water Supply" *means a public water supply that is not a*
412 *community water supply [415 ILCS 5/3.145].*

413
414 "Occurrence" *means an accident, including continuous or repeated exposure to*
415 *conditions, that results in a sudden or nonsudden release from an underground*
416 *storage tank [415 ILCS 5/57.2].*

417
418 "OSFM" means the Office of the State Fire Marshal.

419
420 "Operator" means any person in control of, or having responsibility for, the daily
421 operation of the underground storage tank. (Derived from 42 USC 6991)
422 BOARD NOTE: A person who voluntarily undertakes action to remove an
423 underground storage tank system from the ground shall not be deemed an
424 "operator" merely by the undertaking of such action.

425
426 "Owner" means:

427
428 In the case of an underground storage tank in use on November 8, 1984, or
429 brought into use after that date, any person who owns an underground

430 storage tank used for the storage, use or dispensing of regulated
431 substances;

432
433 In the case of any underground storage tank in use before November 8,
434 1984, but no longer in use on that date, any person who owned such
435 underground storage tank immediately before the discontinuation of its
436 use; (Derived from 42 USC 6991)

437
438 *Any person who has submitted to the Agency a written election to proceed*
439 *under the underground storage tank program and has acquired an*
440 *ownership interest in a site on which one or more registered tanks have*
441 *been removed, but on which corrective action has not yet resulted in the*
442 *issuance of a "No Further Remediation Letter" by the Agency pursuant to*
443 *the underground storage tank program [415 ILCS 5/57.2].*

444
445 "Perfect" or "Perfected" means recorded or filed for record so as to place the
446 public on notice, or as otherwise provided in Section 732.703(c) and (d) of this
447 Part.

448
449 "Person" means, for the purposes of interpreting the definitions of the terms
450 "owner" or "operator," an individual, trust, firm, joint stock company, joint
451 venture, consortium, commercial entity, corporation (including a government
452 corporation), partnership, association, state, municipality, commission, political
453 subdivision of a state, or any interstate body and shall include the United States
454 Government and each department, agency, and instrumentality of the United
455 States. (Derived from 42 USC 6991)

456
457 "Petroleum" means petroleum, including crude oil or any fraction thereof which is
458 liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds
459 per square inch absolute). (Derived from 42 USC 6991)

460
461 "Physical Soil Classification" *means verification of geological conditions*
462 *consistent with regulations for identifying and protecting potable resource*
463 *groundwater or verification that subsurface strata are as generally mapped in the*
464 *publication Illinois Geological Survey Circular (1984) entitled "Potential For*
465 *Contamination Of Shallow Aquifers In Illinois," by Berg, Richard C., et al. Such*
466 *classification may include review of soil borings, well logs, physical soil analysis,*
467 *regional geologic maps, or other scientific publication. [415 ILCS 5/57.2]*

468
469 "Potable" *means generally fit for human consumption in accordance with*
470 *accepted water supply principles and practices [415 ILCS 5/3.340].*

471
472 "Practical quantitation limit" or "PQL" means the lowest concentration that can be

473 reliably measured within specified limits of precision and accuracy for a specific
 474 laboratory analytical method during routine laboratory operating conditions in
 475 accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical
 476 Methods," EPA Publication No. SW-846, incorporated by reference at Section
 477 732.104 of this Part. For filtered water samples, PQL also means the Method
 478 Detection Limit or Estimated Detection Limit in accordance with the applicable
 479 method revision in: "Methods for the Determination of Metals in Environmental
 480 Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the
 481 Determination of Metals in Environmental Samples, Supplement I," EPA
 482 Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic
 483 Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039;
 484 "Methods for the Determination of Organic Compounds in Drinking Water,
 485 Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the
 486 Determination of Organic Compounds in Drinking Water, Supplement III," EPA
 487 Publication No. EPA/600/R-95/131, all of which are incorporated by reference at
 488 Section 732.104 of this Part.

489
 490 "Property Damage" *means physical injury to, destruction of, or contamination of*
 491 *tangible property owned by a person other than an owner or operator of the UST*
 492 *from which a release of petroleum has occurred and which tangible property is*
 493 *located off the site where the release occurred. Property damage includes all*
 494 *resulting loss of use of that property; or loss of use of tangible property that is not*
 495 *physically injured, destroyed or contaminated, but has been evacuated,*
 496 *withdrawn from use, or rendered inaccessible because of a release of petroleum*
 497 *from an underground storage tank [415 ILCS 5/57.2].*

498
 499 "Public Water Supply" *means all mains, pipes and structures through which*
 500 *water is obtained and distributed to the public, including wells and well*
 501 *structures, intakes and cribs, pumping stations, treatment plants, reservoirs,*
 502 *storage tanks and appurtenances, collectively or severally, actually used or*
 503 *intended for use for the purpose of furnishing water for drinking or general*
 504 *domestic use and which serve at least 15 service connections or which regularly*
 505 *serve at least 25 persons at least 60 days per year. A public water supply is either*
 506 *a "community water supply" or a "non-community water supply" [415 ILCS*
 507 *5/3.365].*

508
 509 "Registration" means registration of an underground storage tank with the OSFM
 510 in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

511
 512 "Regulated recharge area" *means a compact geographic area, as determined by*
 513 *the Board, the geology of which renders a potable resource groundwater*
 514 *particularly susceptible to contamination [415 ILCS 5/3.390].*

515

516 "Regulated Substance" means any substance defined in Section 101(14) of the
 517 Comprehensive Environmental Response, Compensation, and Liability Act of
 518 1980 (42 USC Sec. 9601(14)) (but not including any substance regulated as a
 519 hazardous waste under subtitle C of the Resource Conservation and Recovery Act
 520 (42 USC 6921 et seq.)), and petroleum. (Derived from 42 USC 6991)
 521

522 "*Release*" means any *spilling, leaking, emitting, discharging, escaping, leaching,*
 523 *or disposing of petroleum from an underground storage tank into groundwater,*
 524 *surface water or subsurface soils* [415 ILCS 5/57.2].
 525

526 "Residential Tank" means an underground storage tank located on property used
 527 primarily for dwelling purposes.
 528

529 "Residential Unit" means a structure used primarily for dwelling purposes
 530 including multi-unit dwellings such as apartment buildings, condominiums,
 531 cooperatives or dormitories.
 532

533 "Right-of-way" means *the land, or interest therein, acquired for or devoted to a*
 534 *highway* [605 ILCS 5/2-217].
 535

536 "Setback Zone" means *a geographic area, designated pursuant to the Act or*
 537 *regulations (see 35 Ill. Adm. Code, Subtitle F), containing a potable water supply*
 538 *well or a potential source or potential route, having a continuous boundary, and*
 539 *within which certain prohibitions or regulations are applicable in order to protect*
 540 *groundwater* [415 ILCS 5/3.450].
 541

542 "Site" means *any single location, place, tract of land or parcel of property*
 543 *including contiguous property not separated by a public right-of-way* [415 ILCS
 544 5/57.2].
 545

546 "State Highway" means a State highway as defined in the Illinois Highway Code
 547 [605 ILCS 5].
 548

549 "Stratigraphic Unit" means a site-specific geologic unit of native deposited
 550 material and/or bedrock of varying thickness (e.g., sand, gravel, silt, clay,
 551 bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct
 552 contrast in geologic material or a change in physical features within a zone of
 553 gradation. For the purposes of this Part, a change in stratigraphic unit is identified
 554 by one or a combination of differences in physical features such as texture,
 555 cementation, fabric, composition, density, and/or permeability of the native
 556 material and/or bedrock.
 557

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

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"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;

602 Liquid trap or associated gathering lines directly related to oil or gas
603 production and gathering operations; or
604

605 Storage tank situated in an underground area (such as a basement, cellar,
606 mineworking, drift, shaft, or tunnel) if the storage tank is situated on or
607 above the surface of the floor. (Derived from 42 USC 6991)
608

609 *The term "underground storage tank" shall also mean an underground storage*
610 *tank used exclusively to store heating oil for consumptive use on the premises*
611 *where stored and which serves other than a farm or residential unit [415 ILCS*
612 *5/57.2].*
613

614 "UST System" or "Tank System" means an underground storage tank, connected
615 underground piping, underground ancillary equipment, and containment system,
616 if any.
617

618 "Wellhead Protection Area" means the wellhead protection area of a community
619 water supply well as determined under the Agency's wellhead protection program
620 pursuant to 42 USC 300h-7.
621

622 **Section 732.104 Incorporations by Reference**
623

624 a) The Board incorporates the following material by reference:
625

626 ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive,
627 P.O. Box C700, West Conshohocken, PA 19428-2959 (610) 832-9585
628

629 ASTM D 422-63, Standard Test Method for Particle-Size Analysis of
630 Soils, approved November 21, 1963 (reapproved 1990).
631

632 ASTM D 1140-92, Standard Test Method for Amount of Material in Soils
633 Finer than the No. 200 (75 µm) Sieve, approved November 15, 1992.
634

635 ASTM D 2216-92, Standard Test Method for Laboratory Determination of
636 Water (Moisture) Content of Soil and Rock, approved June 15, 1992.
637

638 ASTM D 4643-93, Standard Test Method for Determination of Water
639 (Moisture) Content of Soil by the Microwave Oven Method, approved
640 July 15, 1993.
641

642 ASTM D 2487-93, Standard Test Method for Classification of Soils for
643 Engineering Purposes, approved September 15, 1993.
644

645 ASTM D 2488-93, Standard Practice for Description and Identification of
646 Soils (Visual-Manual Procedure), approved September 15, 1993.
647
648 ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic
649 Conductivity of Saturated Porous Materials Using a Flexible Wall
650 Permeameter, approved June 22, 1990.
651
652 ASTM D 4525-90, Standard Test Method for Permeability of Rocks by
653 Flowing Air, approved May 25, 1990.
654
655 ASTM D 1587-83, Standard Practice for Thin-Walled Tube Sampling of
656 Soils, approved August 17, 1983.
657
658 ISGS. Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL
659 61820-6964 (217) 333-4747
660
661 Richard C. Berg, John P. Kempton, Keros Cartwright, "Potential for
662 Contamination of Shallow Aquifers in Illinois" (1984), Circular No. 532.
663
664 NTIS. National Technical Information Service, 5285 Port Royal Road,
665 Springfield, VA 22161 (703) 605-6000 or (800) 553-6847
666
667 "Methods for the Determination of Metals in Environmental Samples,"
668 EPA Publication No. EPA/600/4-91/010 (June 1991);
669
670 "Methods for the Determination of Metals in Environmental Samples,
671 Supplement I," EPA Publication No. EPA/600/R-94/111 (May 1994);
672
673 "Methods for the Determination of Organic Compounds in Drinking
674 Water," EPA Publication No. EPA/600/4-88/039 (December 1988)
675 (revised July 1991);
676
677 "Methods for the Determination of Organic Compounds in Drinking
678 Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August
679 1992);
680
681 "Methods for the Determination of Organic Compounds in Drinking
682 Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August
683 1995);
684
685 "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods,"
686 EPA Publication No. SW-846, Third Edition (September 1986), as
687 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.

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(c) 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.

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

730 Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part must be
731 prepared under the supervision of a Licensed Professional Engineer.
732

733 **Section 732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures and**
734 **Certifications**
735

736 a) All plans, budget plans, and reports must be submitted to the Agency on forms
737 prescribed and provided by the Agency and, if specified by the Agency in writing,
738 in an electronic format. At a minimum, all site maps submitted to the Agency
739 must meet the following requirements:
740

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

743
744 2) The maps must contain the map scale, an arrow indicating north
745 orientation, and the date the map was created; and
746

747 3) The maps must show the following:
748

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

752
753 B) The uses of the site, properties adjacent to the site, and other
754 properties that are, or may be, adversely affected by the release;

755
756 C) The locations of all current and former USTs at the site, and the
757 contents of each UST; and
758

759 D) All structures, other improvements, and other features at the site,
760 properties adjacent to the site, and other properties that are, or may
761 be, adversely affected by the release, including but not limited to
762 buildings, pump islands, canopies, roadways and other paved
763 areas, utilities, easements, rights-of-way, and actual or potential
764 natural or man-made pathways.
765

766 b) All plans, budget plans, and reports must be mailed or delivered to the address
767 designated by the Agency. The Agency's record of the date of receipt must be
768 deemed conclusive unless a contrary date is proven by a dated, signed receipt
769 executed by Agency personnel acknowledging receipt of documents by hand
770 delivery or messenger or from certified or registered mail.
771

- 772 c) All plans, budget plans, and reports must be signed by the owner or operator and
773 list the owner's or operator's full name, address, and telephone number.
774
- 775 d) All plans, budget plans, and reports submitted pursuant to this Part, excluding
776 Corrective Action Completion Reports submitted pursuant to Section 732.300(b)
777 or 732.409 of this Part, must contain the following certification from a Licensed
778 Professional Engineer or Licensed Professional Geologist. Corrective Action
779 Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this
780 Part must contain the following certification from a Licensed Professional
781 Engineer.
782

783 I certify under penalty of law that all activities that are the subject of this
784 plan, budget plan, or report were conducted under my supervision or were
785 conducted under the supervision of another Licensed Professional
786 Engineer or Licensed Professional Geologist and reviewed by me; that this
787 plan, budget plan, or report and all attachments were prepared under my
788 supervision; that, to the best of my knowledge and belief, the work
789 described in the plan, budget plan, or report has been completed in
790 accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill.
791 Adm. Code 732, and generally accepted standards and practices of my
792 profession; and that the information presented is accurate and complete. I
793 am aware there are significant penalties for submitting false statements or
794 representations to the Agency, including but not limited to fines,
795 imprisonment, or both as provided in Sections 44 and 57.17 of the
796 Environmental Protection Act [415 ILCS 5/44 and 57.17].
797

- 798 e) Except in the case of sites subject to Section 732.703(c) or (d) of this Part, reports
799 documenting the completion of corrective action at a site must contain a form
800 addressing site ownership. At a minimum, the form must identify the land use
801 limitations proposed for the site, if land use limitations are proposed; the site's
802 common address, legal description, and real estate tax/parcel index number; and
803 the names and addresses of all title holders of record of the site or any portion of
804 the site. The form must also contain the following certification, by original
805 signature, of all title holders of record of the site or any portion of the site, or the
806 agent(s) of such person(s):
807

808 I hereby affirm that I have reviewed the attached report entitled _____ and
809 dated _____, and that I accept the terms and conditions set forth therein,
810 including any land use limitations, that apply to property I own. I further
811 affirm that I have no objection to the recording of a No Further
812 Remediation Letter containing the terms and conditions identified in the
813 report upon the property I own.
814

815 **Section 732.112 Notification of Field Activities**

816
 817 The Agency may require owners and operators to notify the Agency of field activities prior to the
 818 date the field activities take place. The notice must include information prescribed by the
 819 Agency, and may include, but is not limited to, a description of the field activities to be
 820 conducted, the person conducting the activities, and the date, time, and place the activities will
 821 be conducted. The Agency may, but is not required to, allow notification by telephone,
 822 facsimile, or electronic mail. This Section does not apply to activities conducted within 45 days
 823 plus 14 days after initial notification to IEMA of a release, or to free product removal activities
 824 conducted within 45 days plus 14 days after the confirmation of the presence of free product.
 825

826 **Section 732.114 LUST Advisory Committee**

827
 828 Once each calendar quarter the Agency must meet with a LUST Advisory Committee to discuss
 829 the Agency's implementation of this Part, provided that the Agency or members of the
 830 Committee raise one or more issues for discussion. The LUST Advisory Committee must
 831 consist of the following individuals: one member designated by the Illinois Petroleum Marketers
 832 Association, one member designated by the Illinois Petroleum Council, one member designated
 833 by the American Consulting Engineers Council of Illinois, one member designated by the Illinois
 834 Society of Professional Engineers, one member designated by the Illinois Chapter of the
 835 American Institute of Professional Geologists, two members designated by the Professionals of
 836 Illinois for the Protection of the Environment, one member designated by the Illinois Association
 837 of Environmental Laboratories, one member designated by the Illinois Environmental
 838 Regulatory Group, one member designated by the Office of the State Fire Marshal, and one
 839 member designated by the Illinois Department of Transportation. Members of the LUST
 840 Advisory Committee must serve without compensation.
 841

842 **SUBPART B: EARLY ACTION**

843
 844 **Section 732.200 General**

845
 846 *Owners and operators of underground storage tanks shall, in response to all confirmed releases*
 847 *of petroleum, comply with all applicable statutory and regulatory reporting and response*
 848 *requirements. [415 ILCS 5/57.6] No work plan or corresponding budget plan shall be required*
 849 *for conducting early action activities, excluding free product removal activities conducted more*
 850 *than 45 days after confirmation of the presence of free product.*
 851

852 **Section 732.201 Agency Authority to Initiate**

853
 854 Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to
 855 require or initiate early action activities in accordance with the remainder of this Subpart B.
 856

857 **Section 732.202 Early Action**

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- 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.

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- 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*

944 or ex situ treatment of contaminated fill material removed from within 4 feet from
 945 the outside dimensions of the tank. [415 ILCS 5/57.6(b)]
 946

- 947 g) For purposes of payment from the Fund, the activities set forth in subsection (f) of
 948 this Section shall be performed within 45 days after initial notification to IEMA
 949 of a release plus 14 days, unless special circumstances, approved by the Agency
 950 in writing, warrant continuing such activities beyond 45 days plus 14 days. The
 951 owner or operator shall notify the Agency in writing of such circumstances within
 952 45 days after initial notification to IEMA of a release plus 14 days. Costs
 953 incurred beyond 45 days plus 14 days shall be eligible if the Agency determines
 954 that they are consistent with early action.

955 BOARD NOTE: Owners or operators seeking payment from the Fund are to first
 956 notify IEMA of a suspected release and then confirm the release within 14 days to
 957 IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code
 958 170.560 and 170.580. The Board is setting the beginning of the payment period
 959 at subsection (g) to correspond to the notification and confirmation to IEMA.
 960

- 961 h) The owner or operator shall determine whether the areas or locations of soil
 962 contamination exposed as a result of early action excavation (e.g., excavation
 963 boundaries, piping runs) or surrounding USTs that remain in place meet the most
 964 stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the
 965 applicable indicator contaminants.
 966

- 967 1) At a minimum, for each UST that is removed, the owner or operator shall
 968 collect and analyze soil samples as follows. The Agency must allow an
 969 alternate location for, or excuse the collection of, one or more samples if
 970 sample collection in the following locations is made impracticable by site-
 971 specific circumstances.
 972

- 973 A) One sample must be collected from each UST excavation wall.
 974 The samples must be collected from locations representative of soil
 975 that is the most contaminated as a result of the release. If an area
 976 of contamination cannot be identified on a wall, the sample must
 977 be collected from the center of the wall length at a point located
 978 one-third of the distance from the excavation floor to the ground
 979 surface. For walls that exceed 20 feet in length, one sample must
 980 be collected for each 20 feet of wall length, or fraction thereof, and
 981 the samples must be evenly spaced along the length of the wall.
 982 For USTs abandoned in place, the samples must be collected via
 983 borings drilled as close as practicable to the UST backfill.
 984

- 985 B) Two samples must be collected from the excavation floor below
 986 each UST with a volume of 1,000 gallons or more. One sample

- 987 must be collected from the excavation floor below each UST with
 988 a volume of less than 1,000 gallons. The samples must be
 989 collected from locations representative of soil that is the most
 990 contaminated as a result of the release. If areas of contamination
 991 cannot be identified, the samples must be collected from below
 992 each end of the UST if its volume is 1,000 gallons or more, and
 993 from below the center of the UST if its volume is less than 1,000
 994 gallons.
 995
- 996 C) One sample must be collected from the floor of each 20 feet of
 997 UST piping run excavation, or fraction thereof. The samples must
 998 be collected from a location representative of soil that is the most
 999 contaminated as a result of the release. If an area of contamination
 1000 cannot be identified within a length of piping run excavation being
 1001 sampled, the sample must be collected from the center of the
 1002 length being sampled. For UST piping abandoned in place, the
 1003 samples must be collected in accordance with subsection (h)(2)(B)
 1004 of this Section.
 1005
- 1006 D) If backfill is returned to the excavation, one representative sample
 1007 of the backfill must be collected for each 100 cubic yards of
 1008 backfill returned to the excavation.
 1009
- 1010 E) The samples must be analyzed for the applicable indicator
 1011 contaminants. In the case of a used oil UST, the sample that
 1012 appears to be the most contaminated as a result of a release from
 1013 the used oil UST must be analyzed in accordance with Section
 1014 732.310(g) of this Part to determine the indicator contaminants for
 1015 used oil. The remaining samples collected pursuant to subsections
 1016 (h)(1)(A) through (D) of this Section must then be analyzed for the
 1017 applicable used oil indicator contaminants.
 1018
- 1019 2) At a minimum, for each UST that remains in place, the owner or operator
 1020 must collect and analyze soil samples as described in subsections
 1021 (h)(2)(A) through (D). The Agency must allow an alternate location for,
 1022 or excuse the drilling of, one or more borings if drilling in the following
 1023 locations is made impracticable by site-specific circumstances.
 1024
- 1025 A) One boring must be drilled at the center point along each side of
 1026 each UST, or along each side of each cluster of multiple USTs,
 1027 remaining in place. If a side exceeds 20 feet in length, one boring
 1028 must be drilled for each 20 feet of side length, or fraction thereof,
 1029 and the borings must be evenly spaced along the side. The borings

- 1030 must be drilled in the native soil surrounding the UST(s) and as
1031 close as practicable to, but not more than five feet from, the
1032 backfill material surrounding the UST(s). Each boring must be
1033 drilled to a depth of 30 feet below grade, or until groundwater or
1034 bedrock is encountered, whichever is less. Borings may be drilled
1035 below the groundwater table if site specific conditions warrant, but
1036 no more than 30 feet below grade.
1037
- 1038 B) Two borings, one on each side of the piping, must be drilled for
1039 every 20 feet of UST piping, or fraction thereof, that remains in
1040 place. The borings must be drilled as close practicable to, but not
1041 more than five feet from, the locations of suspected piping
1042 releases. If no release is suspected within a length of UST piping
1043 being sampled, the borings must be drilled in the center of the
1044 length being sampled. Each boring must be drilled to a depth of 15
1045 feet below grade, or until groundwater or bedrock is encountered,
1046 whichever is less. Borings may be drilled below the groundwater
1047 table if site specific conditions warrant, but no more than 15 feet
1048 below grade. For UST piping that is removed, samples must be
1049 collected from the floor of the piping run in accordance with
1050 subsection (h)(1)(C) of this Section.
1051
- 1052 C) If auger refusal occurs during the drilling of a boring required
1053 under subsection (h)(2)(A) or (B) of this Section, the boring must
1054 be drilled in an alternate location that will allow the boring to be
1055 drilled to the required depth. The alternate location must not be
1056 more than five feet from the boring's original location. If auger
1057 refusal occurs during drilling of the boring in the alternate location,
1058 drilling of the boring must cease and the soil samples collected
1059 from the location in which the boring was drilled to the greatest
1060 depth must be analyzed for the applicable indicator contaminants.
1061
- 1062 D) One soil sample must be collected from each five-foot interval of
1063 each boring required under subsections (h)(2)(A) through (C) of
1064 this Section. Each sample must be collected from the location
1065 within the five-foot interval that is the most contaminated as a
1066 result of the release. If an area of contamination cannot be
1067 identified within a five-foot interval, the sample must be collected
1068 from the center of the five-foot interval, provided, however, that
1069 soil samples must not be collected from soil below the
1070 groundwater table. All samples must be analyzed for the
1071 applicable indicator contaminants.
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- 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

1116 recovery in compliance with Section 732.203 of this Part; or
 1117

1118 C) There is evidence that contaminated soils may be or may have
 1119 been in contact with groundwater, unless:

1120
 1121 i) The owner or operator pumps the excavation or tank cavity
 1122 dry, properly disposes of all contaminated water, and
 1123 demonstrates to the Agency that no recharge is evident
 1124 during the 24 hours following pumping; and

1125
 1126 ii) The Agency determines that further groundwater
 1127 investigation is not necessary.
 1128

1129 **Section 732.203 Free Product Removal**
 1130

1131 a) Under any circumstance in which conditions at a site indicate the presence of free
 1132 product, owners or operators shall remove, to the maximum extent practicable,
 1133 free product exceeding one-eighth of an inch in depth as measured in a
 1134 groundwater monitoring well, or present as a sheen on groundwater in the tank
 1135 removal excavation or on surface water, while initiating or continuing any actions
 1136 required pursuant to this Part or other applicable laws or regulations. In meeting
 1137 the requirements of this Section, owners or operators shall:

1138
 1139 1) Conduct free product removal in a manner that minimizes the spread of
 1140 contamination into previously uncontaminated zones by using recovery
 1141 and disposal techniques appropriate to the hydrogeologic conditions at the
 1142 site and that properly treats, discharges or disposes of recovery byproducts
 1143 in compliance with applicable local, State and federal regulations;
 1144

1145 2) Use abatement of free product migration as a minimum objective for the
 1146 design of the free product removal system;
 1147

1148 3) Handle any flammable products in a safe and competent manner to
 1149 prevent fires or explosions;
 1150

1151 4) Within 45 days after the confirmation of presence of free product from a
 1152 UST, prepare and submit to the Agency a free product removal report.
 1153 The report shall, at a minimum, provide the following:
 1154

1155 A) The name of the persons responsible for implementing the free
 1156 product removal measures;

1157
 1158 B) The estimated quantity, type and thickness of free product

- 1159 observed or measured in wells, boreholes and excavations;
1160
1161 C) The type of free product recovery system used;
1162
1163 D) Whether any discharge will take place on-site or off-site during the
1164 recovery operation and where this discharge will be located;
1165
1166 E) The type of treatment applied to, and the effluent quality expected
1167 from, any discharge;
1168
1169 F) The steps that have been or are being taken to obtain necessary
1170 permits for any discharge;
1171
1172 G) The disposition of the recovered free product;
1173
1174 H) The steps taken to identify the source and extent of the free
1175 product; and
1176
1177 I) A schedule of future activities necessary to complete the recovery
1178 of free product still exceeding one-eighth of an inch in depth as
1179 measured in a groundwater monitoring well, or still present as a
1180 sheen on groundwater in the tank removal excavation or on surface
1181 water. The schedule must include, but not be limited to, the
1182 submission of plans and budgets required pursuant to subsections
1183 (c) and (d) of this Section; and
1184
1185 5) If free product removal activities are conducted more than 45 days after
1186 the confirmation of the presence of free product, submit free product
1187 removal reports in accordance with a schedule established by the Agency.
1188
1189 b) For purposes of payment from the Fund, owners or operators are not required to
1190 obtain Agency approval for free product removal activities conducted within 45
1191 days after the confirmation of the presence of free product.
1192
1193 c) If free product removal activities will be conducted more than 45 days after the
1194 confirmation of the presence of free product, the owner or operator must submit to
1195 the Agency for review a free product removal plan. The plan must be submitted
1196 with the free product removal report required under subsection (a)(4) of this
1197 Section. Free product removal activities conducted more than 45 days after the
1198 confirmation of the presence of free product must not be considered early action
1199 activities.
1200
1201 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.

Section 732.204 Application for Payment of Early Action Costs

1245
 1246 Owners or operators intending to seek payment for early action activities, excluding free product
 1247 removal activities conducted more than 45 days after confirmation of the presence of free
 1248 product, are not required to submit a corresponding budget plan. The application for payment
 1249 may be submitted to the Agency upon completion of the early action activities in accordance
 1250 with the requirements at Subpart F of this Part, excluding free product removal activities
 1251 conducted more than 45 days after confirmation of the presence of free product. Applications for
 1252 payment of free product removal activities conducted more than 45 days after confirmation of
 1253 the presence of free product may be submitted upon completion of the free product removal
 1254 activities.

1255
 1256 **SUBPART C: SITE EVALUATION AND CLASSIFICATION**

1257
 1258 **Section 732.300 General**

- 1259
- 1260 a) Except as provided in subsection (b) of this Section, or unless the owner or
 1261 operator submits a report pursuant to Section 732.202(h)(3) of this Part
 1262 demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill.
 1263 Adm. Code 742 for the applicable indicator contaminants have been met, the
 1264 owner or operator of any site subject to this Part shall evaluate and classify the
 1265 site in accordance with the requirements of this Subpart C. All such sites shall be
 1266 classified as No Further Action, Low Priority or High Priority. Site classifications
 1267 shall be based on the results of the site evaluation, including, but not limited to,
 1268 the physical soil classification and the groundwater investigation, if applicable.
 1269
 - 1270 b) An owner or operator may choose to conduct remediation sufficient to satisfy the
 1271 remediation objectives in Section 732.408 of this Part as an alternative to
 1272 conducting site classification activities pursuant to this Subpart C provided that:
 1273
 - 1274 1) Upon completion of the remediation, the owner or operator shall submit a
 1275 corrective action completion report demonstrating compliance with the
 1276 required levels. The corrective action completion report must include, but
 1277 not be limited to, a narrative and timetable describing the implementation
 1278 and completion of all elements of the remediation and the procedures used
 1279 for the collection and analysis of samples, soil boring logs, actual
 1280 analytical results, laboratory certification, site maps, well logs, and any
 1281 other information or documentation relied upon by the Licensed
 1282 Professional Engineer in reaching the conclusion that the requirements of
 1283 the Act and regulations have been satisfied and that no further remediation
 1284 is required at the site.
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- 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

- 1372 Illinois Department of Public Health (or the county or local
1373 health department delegated by the Illinois Department of
1374 Public Health to permit potable water supply wells) to
1375 identify potable water supply wells other than community
1376 water supply wells; and
1377
- 1378 iii) Contacting the local public water supply entities to identify
1379 properties that receive potable water from a public water
1380 supply.
1381
- 1382 B) In addition to the potable water supply wells identified pursuant to
1383 subsection (b)(3)(A) of this Section, the owner or operator must
1384 extend the water supply well survey if soil or groundwater
1385 contamination exceeding the Tier 1 groundwater ingestion
1386 exposure route remediation objectives of 35 Ill. Adm. Code 742 for
1387 the applicable indicator contaminants extends beyond the site's
1388 property boundary, or, as part of remediation, the owner or
1389 operator leaves in place soil or groundwater contamination
1390 exceeding the Tier 1 groundwater ingestion exposure route
1391 remediation objectives of 35 Ill. Adm. Code 742 for the applicable
1392 indicator contaminants and contamination exceeding such
1393 objectives is modeled to migrate beyond the site's property
1394 boundary. At a minimum, the extended water supply well survey
1395 must identify the following:
1396
- 1397 i) All potable water supply wells located within 200 feet, and
1398 all community water supply wells located within 2,500 feet,
1399 of the current or modeled extent of soil or groundwater
1400 contamination exceeding the Tier 1 groundwater ingestion
1401 exposure route remediation objectives of 35 Ill. Adm. Code
1402 742 for the applicable indicator contaminants; and
1403
- 1404 ii) All regulated recharge areas and wellhead protection areas
1405 in which the current or modeled extent of soil or
1406 groundwater contamination exceeding the Tier 1
1407 groundwater ingestion exposure route remediation
1408 objectives of 35 Ill. Adm. Code 742 for the applicable
1409 indicator contaminants is located.
1410
- 1411 C) The Agency may require additional investigation of potable water
1412 supply wells, regulated recharge areas, or wellhead protection
1413 areas if site-specific circumstances warrant. Such circumstances
1414 must include, but are not limited to, the existence of one or more

1415 parcels of property within 200 feet of the current or modeled extent
 1416 of soil or groundwater contamination exceeding the Tier 1
 1417 groundwater ingestion exposure route remediation objectives of 35
 1418 Ill. Adm. Code 742 for the applicable indicator contaminants
 1419 where potable water is likely to be used, but that is not served by a
 1420 public water supply or a well identified pursuant to subsections
 1421 (b)(3)(A) or (b)(3)(b) of this Section. The additional investigation
 1422 may include, but is not limited to, physical well surveys (e.g.,
 1423 interviewing property owners, investigating individual properties
 1424 for wellheads, distributing door hangers or other material that
 1425 requests information about the existence of potable wells on the
 1426 property, etc.).
 1427

1428 BOARD NOTE: Owners or operators proceeding under subsection (b) of this
 1429 Section are advised that they are not entitled to payment from the Fund for costs
 1430 incurred after completion of early action activities in accordance with Subpart B.
 1431 See Subpart F of this Part.
 1432

- 1433 c) For corrective action completion reports submitted pursuant to subsection (b) of
 1434 this Section, the Agency shall issue a No Further Remediation Letter upon
 1435 approval of the report by the Agency in accordance with Subpart E.
 1436

1437 **Section 732.301 Agency Authority to Initiate**
 1438

1439 Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to
 1440 require or initiate corrective action activities in accordance with the remainder of this Subpart C.
 1441

1442 **Section 732.302 No Further Action Sites**
 1443

- 1444 a) Unless an owner or operator elects to classify a site under Section 732.312, sites
 1445 shall be classified as No Further Action if all of the following criteria are
 1446 satisfied:
 1447

- 1448 1) The physical soil classification procedure completed in accordance with
 1449 Section 732.307 confirms either of the following:
 1450

- 1451 A) "Berg Circular"
 1452

- 1453 i) The site is located in an area designated D, E, F or G on the
 1454 Illinois State Geological Survey Circular (1984) entitled
 1455 "Potential for Contamination of Shallow Aquifers in
 1456 Illinois," incorporated by reference at Section 732.104 of
 1457 this Part; and

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- 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.

1496 **Section 732.303 Low Priority Sites**

1497
1498 Unless an owner or operator elects to classify a site under Section 732.312, sites shall be
1499 classified as Low Priority if all of the following criteria are met:
1500

- 1501 a) The physical soil classification and groundwater investigation procedures confirm
 1502 the following:
 1503
- 1504 1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill.
 1505 Adm. Code 742 for the applicable indicator contaminants have not been
 1506 exceeded at the property boundary line or 200 feet from the UST system,
 1507 whichever is less; and
 1508
- 1509 2) "Berg Circular"
 1510
- 1511 A) The site is located in an area designated A1, A2, A3, A4, A5, AX,
 1512 B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological
 1513 Survey Circular (1984) entitled, "Potential for Contamination of
 1514 Shallow Aquifers in Illinois," incorporated by reference at Section
 1515 732.104 of this Part; and
 1516
- 1517 B) The site's actual physical soil conditions are verified as consistent
 1518 with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1,
 1519 C2, C3, C4, or C5 on the Illinois State Geological Survey Circular
 1520 (1984) entitled, "Potential for Contamination of Shallow Aquifers
 1521 in Illinois"; or
 1522
- 1523 3) The site soil characteristics do not satisfy the criteria of Section
 1524 732.307(d)(3) of this Part;
 1525
- 1526 b) The UST system is not within the minimum or maximum setback zone of a
 1527 potable water supply well or regulated recharge area of a potable water supply
 1528 well;
 1529
- 1530 c) After completing early action measures in accordance with Subpart B of this Part,
 1531 there is no evidence that, through natural or man-made pathways, migration of
 1532 petroleum or vapors threaten human health or human safety or may cause
 1533 explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers,
 1534 vaults or other confined spaces;
 1535
- 1536 d) There is no designated Class III special resource groundwater within 200 feet of
 1537 the UST system; and
 1538
- 1539 e) After completing early action measures in accordance with Subpart B of this Part,
 1540 there are no surface bodies of water adversely affected by the presence of a visible
 1541 sheen or free product layer as a result of the release of petroleum.
 1542

1543 **Section 732.304 High Priority Sites**

- 1544
 1545 Unless an owner or operator elects to classify a site under Section 732.312, sites shall be
 1546 classified as High Priority if any of the following are met:
 1547
- 1548 a) The physical soil classification and groundwater investigation procedures confirm
 1549 the following:
 - 1550
 - 1551 1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill.
 1552 Adm. Code 742 for the applicable indicator contaminants have been
 1553 exceeded at the property boundary line or 200 feet from the UST system,
 1554 whichever is less; and
 - 1555
 - 1556 2) "Berg Circular"
 - 1557
 - 1558 A) The site is located in an area designated A1, A2, A3, A4, A5, AX,
 1559 B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological
 1560 Survey Circular (1984) entitled, "Potential for Contamination of
 1561 Shallow Aquifers in Illinois," incorporated by reference at Section
 1562 732.104 of this Part; and
 - 1563
 - 1564 B) The site's actual physical soil conditions are verified as consistent
 1565 with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1,
 1566 C2, C3, C4, or C5 on the Illinois State Geological Survey Circular
 1567 (1984) entitled, "Potential for Contamination of Shallow Aquifers
 1568 in Illinois"; or
 - 1569
 - 1570 3) The site soil characteristics do not satisfy the criteria of Section
 1571 732.307(d)(3) of this Part;
 - 1572
 - 1573 b) The UST system is within the minimum or maximum setback zone of a potable
 1574 water supply well or regulated recharge area of a potable water supply well;
 - 1575
 - 1576 c) After completing early action measures in accordance with Subpart B of this Part,
 1577 there is evidence that, through natural or man-made pathways, migration of
 1578 petroleum or vapors threaten human health or human safety or may cause
 1579 explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers,
 1580 vaults or other confined spaces;
 - 1581
 - 1582 d) There is designated Class III special resource groundwater within 200 feet of the
 1583 UST system; or
 - 1584
 - 1585 e) After completing early action measures in accordance with Subpart B of this Part,
 1586 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.

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.

- 1630
 1631 e) If, following the approval of any site classification plan, an owner or operator
 1632 determines that revised procedures or cost estimates are necessary in order to
 1633 comply with the minimum required activities for the site, the owner or operator
 1634 shall submit, as applicable, an amended site classification plan or associated
 1635 budget plan for review by the Agency. The Agency shall have the authority to
 1636 review and approve, reject, or require modifications of the amended classification
 1637 plan or budget plan in accordance with the procedures contained in Subpart E of
 1638 this Part.
 1639

1640 BOARD NOTE: Owners and operators are advised that the total payment from the Fund
 1641 for all site classification plans and associated budget plans submitted by an owner or
 1642 operator must not exceed the amounts set forth in Subpart H of this Part.
 1643

1644 **Section 732.306 Deferred Site Classification; Priority List for Payment**
 1645

- 1646 a) An owner or operator who has received approval for any budget plan submitted
 1647 pursuant to this Part and who is eligible for payment from the Fund may elect to
 1648 defer site classification activities until funds are available in an amount equal to
 1649 the amount approved in the budget plan if the requirements of subsection (b) of
 1650 this Section are met.
 1651
- 1652 1) Approvals of budget plans shall be pursuant to Agency review in
 1653 accordance with Subpart E of this Part.
 1654
 - 1655 2) The Agency shall monitor the availability of funds and shall provide
 1656 notice of insufficient funds to owners or operators in accordance with
 1657 Section 732.503(g) of this Part.
 1658
 - 1659 3) Owners and operators must submit elections to defer site classification
 1660 activities on forms prescribed and provided by the Agency and, if
 1661 specified by the Agency by written notice, in an electronic format. The
 1662 forms must be mailed or delivered to the address designated by the
 1663 Agency. The Agency's record of the date of receipt must be deemed
 1664 conclusive unless a contrary date is proven by a dated, signed receipt from
 1665 certified or registered mail.
 1666
 - 1667 4) The Agency must review elections to defer site classification activities to
 1668 determine whether the requirements of subsection (b) of this Section are
 1669 met. The Agency must notify the owner or operator in writing of its final
 1670 action on any such election. If the Agency fails to notify the owner or
 1671 operator of its final action within 120 days after its receipt of the election,
 1672 the owner or operator may deem the election rejected by operation of law.

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- 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;

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- 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.

1744 **Section 732.307 Site Evaluation**

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- 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

- 1759 or Licensed Professional Geologist.
 1760
 1761 b) As a part of each site evaluation, the Licensed Professional Engineer or Licensed
 1762 Professional Geologist shall conduct a physical soil classification in accordance
 1763 with the procedures at subsection (c) or (d) of this Section. Except as provided in
 1764 subsection (e) of this Section, all elements of the chosen method of physical soil
 1765 classification must be completed for each site. In addition to the requirement for
 1766 a physical soil classification, the Licensed Professional Engineer or Licensed
 1767 Professional Geologist shall, at a minimum, complete the requirements at
 1768 subsections (f) through (j) of this Section before classifying a site as High Priority
 1769 or Low Priority and subsection (f) through (i) of this Section before classifying a
 1770 site as No Further Action.
 1771
 1772 c) Method One for Physical Soil Classification:
 1773
 1774 1) Soil Borings
 1775
 1776 A) Prior to conducting field activities, a review of scientific
 1777 publications and regional geologic maps shall be conducted to
 1778 determine if the subsurface strata are as generally mapped in the
 1779 Illinois State Geological Survey Circular (1984) entitled "Potential
 1780 for Contamination of Shallow Aquifers in Illinois," incorporated
 1781 by reference in Section 732.104 of this Part. A list of the
 1782 publications reviewed and any preliminary conclusions concerning
 1783 the site geology shall be included in the site classification
 1784 completion report.
 1785
 1786 B) A minimum of one soil boring to a depth that includes 50 feet of
 1787 native soil or to bedrock shall be performed for each tank field
 1788 with a release of petroleum.
 1789
 1790 C) If, during boring, bedrock is encountered or if auger refusal occurs
 1791 because of the density of a geologic material, a sample of the
 1792 bedrock or other material shall be collected to determine
 1793 permeability or an in situ test shall be performed to determine
 1794 hydraulic conductivity in accordance with subsections (c)(3)(A)
 1795 and (c)(3)(B) of this Section. If bedrock is encountered or auger
 1796 refusal occurs, the Licensed Professional Engineer or Licensed
 1797 Professional Geologist shall verify that the conditions that
 1798 prevented the full boring are expected to be continuous through the
 1799 remaining required depth.
 1800
 1801 D) Borings shall be performed within 200 feet of the outer edge of the

1802 tank field or at the property boundary, whichever is less. If more
1803 than one boring is required per site, borings shall be spaced to
1804 provide reasonable representation of site characteristics. The
1805 actual spacing of the borings shall be based on the regional
1806 hydrogeologic information collected in accordance with subsection
1807 (c)(1)(A) of this Section. Location shall be chosen to limit to the
1808 greatest extent possible the vertical migration of contamination.
1809

- 1810 E) Soil borings shall be continuously sampled to ensure that no gaps
1811 appear in the sample column.
- 1812
- 1813 F) If anomalies are encountered, additional soil borings may be
1814 necessary to verify the consistency of the site geology.
- 1815
- 1816 G) Any water bearing units encountered shall be protected as
1817 necessary to prevent cross-contamination during drilling.
- 1818
- 1819 H) The owner or operator may utilize techniques other than those
1820 specified in this subsection (c)(1) for soil classification provided
1821 that:
 - 1822
 - 1823 i) The techniques provide equivalent, or superior, information
1824 as required by this Section;
 - 1825
 - 1826 ii) The techniques have been successfully utilized in
1827 applications similar to the proposed application;
 - 1828
 - 1829 iii) Methods for quality control can be implemented; and
1830
 - 1831 iv) The owner or operator has received written approval from
1832 the Agency prior to the start of the investigation.
 - 1833

1834 2) Soil Properties

1835 The following tests shall be performed on a representative sample of each
1836 of the stratigraphic units encountered in the native soil boring that has
1837 been determined most conducive to transporting contaminants from the
1838 source based on site factors, including but not limited to visual and tactile
1839 observations, the classification of the soil, any prior evaluation of the site
1840 stratigraphy, the volume of the release, the thickness or extent of the
1841 stratigraphic unit, and the requirements of ASTM D 2488-93, Standard
1842 Practice for Description and Identification of Soils (Visual-Manual
1843 Procedure), approved September 15, 1993:
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- 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 (75µm) 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 in-situ hydraulic conductivity test shall be

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.

Section 732.309 Site Classification Completion Report ~~(Repealed)~~

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.

Section 732.310 Indicator Contaminants ~~(Repealed)~~

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.

Section 732.311 Groundwater Remediation ~~Objective (Repealed)~~ 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.

Section 732.312 Classification by Exposure Pathway Exclusion ~~(Repealed)~~

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.

SUBPART D: CORRECTIVE ACTION

Section 732.400 General ~~(Repealed)~~

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.

Section 732.401 Agency Authority to Initiate ~~(Repealed)~~

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 ~~(Repealed)~~

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.

Section 732.403 Low Priority Site ~~(Repealed)~~

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.

Section 732.404 High Priority Site ~~(Repealed)~~

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.

Section 732.405 Plan Submittal and Review ~~(Repealed)~~

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.

Section 732.406 Deferred Corrective Action; Priority List for Payment
(Repealed)

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.

Section 732.407 Alternative Technologies ~~(Repealed)~~

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.

Section 732.408 Remediation Objectives ~~(Repealed)~~

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 (foc)

~~Board Note~~ 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.

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports
(~~Repealed~~)

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.

Section 732.410 "No Further Remediation" Letter (Repealed)

Section 732.411 Off-Sitesite Access (Repealed)

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.

SUBPART E: ~~SELECTION AND REVIEW PROCEDURES FOR~~ PLANS, BUDGET PLANS, AND REPORTS

Section 732.500 General ~~(Repealed)~~

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.

Section 732.501 Submittal of Plans or Reports (Repealed)

Section 732.502 Completeness Review (Repealed)

Section 732.503 Review of Plans, Budget Plans, or Reports ~~(Repealed)~~

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.

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

Section 732.505 Standards for Review of Plans, Budget Plans, or Reports
(Repealed)

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 or principles of professional geology. 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 or principles of professional geology, 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 or Licensed Professional Geologist 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 or Licensed Professional Geologist'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 ~~are 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,~~ and must not exceed the maximum payment amounts set forth in Subpart H of this Part.

SUBPART F: PAYMENT OR REIMBURSEMENT

Section ~~732.600~~ 732.600 General (Repealed)

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 (Repealed)

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.

Section 732.602 Review of Applications for Payment ~~(Repealed)~~

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.

Section 732.603 Authorization for Payment; Priority List ~~(Repealed)~~

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.

Section 732.604 Limitations on Total Payments ~~(Repealed)~~

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:

<u>Amount</u>	<u>Number</u>	<u>Amount</u>	<u>Number</u>	<u>of Tanks</u>
\$1,000,000			fewer than 101	\$2,000,000
101 <u>12,000,000</u>	<u>101</u>	<u>101</u>	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)].

Section 732.605 Eligible Corrective Action Costs ~~(Repealed)~~

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.

Section 732.606 Ineligible Corrective Action Costs ~~(Repealed)~~

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.

Section 732.607 Payment for Handling Charges ~~(Repealed)~~

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	Eligible	Field	Eligible	Handling
Charges	Purchase	Charges	Purchase	Cost: as a Percentage of Cost:
\$5,000		125,000		\$0 -
12% \$5,001 - \$15,000		15,000		\$600 +
10% of amt. over \$5,000	\$15,001 -			
\$50,000		50,000		\$1,600 + 8% of amt.
over \$15,000	\$50,001 -			
\$100,000		100,000		\$4,400 + 5% of amt. over
\$50,000	\$100,001 - \$1,000,000		1,000,000	\$6,900 + 2%
of amt. over \$100,000				

Section 732.608 Apportionment of Costs ~~(Repealed)~~

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.

Section 732.609 Subrogation of Rights ~~(Repealed)~~

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)].

Section 732.610 Indemnification ~~(Repealed)~~

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.

Section 732.611 Costs Covered by Insurance, Agreement or Court Order ~~(Repealed)~~

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 ~~(Repealed)~~

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].

Section 732.614 Audits and Access to Records; Records Retention—(Repealed)

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.

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section 732.700 General ~~(Repealed)~~

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.

Section 732.701 Issuance of a No Further Remediation Letter—~~(Repealed)~~

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 appeal 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.

Section 732.702 Contents of a No Further Remediation Letter ~~(Repealed)~~

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 avoidance 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.

Section 732.703 Duty to Record a No Further Remediation Letter ~~(Repealed)~~

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 avoidance 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.

Section 732.704 Avoidance of a No Further Remediation Letter ~~(Repealed)~~

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 avoidance 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.

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 732.800 Applicability—(Repealed)

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.

Section 732.810 UST Removal or Abandonment Costs—(Repealed)

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 Volume	Maximum Total Amount per UST
- 999 gallons	\$2,100	\$2,100 - 14,999
gallons	\$3,150	\$3,150 or more gallons
\$4,100		

Section 732.815 Free Product or Groundwater Removal and Disposal—(Repealed)

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.

Section 732.820 Drilling, Well Installation, and Well Abandonment—(Repealed)

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 Drilling	Maximum Total Amount	Hollow	Amount	Hollow
stem auger	greater	auger	greater	of \$23 per foot or \$1,500	Direct-push
platform_ for sampling or other	greater	other	greater	of \$18 per foot or \$1,200	non-injection purposes_ for injection purposes
greater 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 Borehole Maximum Total Amount	Hollow 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 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.

Section 732.825 Soil Removal and Disposal—(Repealed)

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.

Section 732.830 Drum Disposal—(Repealed)

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.

<u>Drum Contents</u>	<u>Maximum Contents</u>	<u>Maximum Total Amount per</u>
Drum Solid waste	\$150	\$250
Drum Liquid waste		Liquid

Section 732.835 Sample Handling and Analysis—(Repealed)

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.

Section 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures—(Repealed)

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).

<u>Depth of Material</u>	<u>Maximum Material</u>	<u>Maximum Total</u>
per Amount per Square Foot	Asphalt	Asphalt and paving -
\$1.653	\$1.653	2 inches
	inches	\$1.864
	\$2.38	\$1.864
	Concrete -	any depth
		\$2.38

b) Payment for costs associated with the replacement of concrete, asphalt, and paving must not exceed the following amounts:

<u>per Amount per</u>	<u>Depth of Material</u>	<u>Maximum Material</u>	<u>Maximum Total Amount</u>
3	\$1.653	inches	2 inches
6	\$2.386	inches	\$1.864
3	\$2.453	inches	\$2.38
6	\$3.896	inches	\$2.38
3	\$2.934	inches	2 inches
6	\$3.896	inches	\$2.45
3	\$2.934	inches	\$3.41
6	\$3.896	inches	\$3.415
3	\$2.934	inches	\$5
6	\$3.896	inches	\$3.415
3	\$2.934	inches	\$5.31
6	\$3.896	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.

Section 732.845 Professional Consulting Services—(Repealed)

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.

Section 732.850 Payment on Time and Materials Basis—(Repealed)

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.

Section 732.855 Bidding—(Repealed)

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.

Section 732.860 Unusual or Extraordinary Circumstances—(Repealed)

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.

Section 732.865 Handling Charges—(Repealed)

Payment of handling charges must not exceed the amounts set forth in Section 732.607 of this Part.

Section 732.870 Increase in Maximum Payment Amounts—(Repealed)

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 1/100th. 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~~ payment 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.

Section 732.875 Agency Review of Payment Amounts ~~(Repealed)~~

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.

Section 732.APPENDIX A Indicator Contaminants ~~(Repealed)~~

~~TANK CONTENTS INDICATOR CONTAMINANTS GASOLINE CONTAMINANTS GASOLINE~~

~~leaded(1), Leaded1, unleaded, premium, and ~~gasohol~~ gasohol Benzene gasohol Benzene~~

~~Ethylbenzene~~

~~Toluene~~

~~Xylene~~

~~Methyl tertiary butyl ether (MTBE)~~

~~MIDDLE DISTILLATE AND HEAVY ENDSaviation turbine fuels(1)~~

~~jet fuelsBenzene~~

~~Ethylbenzene~~

~~Toluene~~

~~Xylene diesel fuelsAcenaphthenegas turbine fuel oilsAnthraceneheating fuel~~

~~oilsBenzo (a)anthraceneilluminating oilsBenzo (a)pyrenekeroseneBenzo~~

~~(b)fluoranthene lubricantsBenzo (k)fluoranthene liquid asphalt and dust laying~~

~~oilsChrysenecable ~~oils~~ dibenzo oils Dibenzo (a,h)anthracene crude oil, crude oil~~

~~fractionsFluoranthene petroleum feedstocksFluorene petroleum fractionsIndeno~~

~~(1,2,3-c,d)pyrene heavy oilsNaphthalene transformer oils(2)Pyrene hydraulic~~

~~fluids(3)Acenaphthylenepetroleum spirits(oils Naphthalene transformer~~

~~oils 2 Pyrene hydraulic fluids 3 Acenaphthylene petroleum~~

~~spirits 4)Benzo (g,h,i)perylene mineral spirits(4), 4, Stoddard~~

~~solvents(4)Phenanthrene high-flash aromatic naphthas(4)VM&P naphthas(4)moderately~~

~~volatile hydrocarbon solvents(4)petroleum extender oils(4)~~

~~USED OILSscreening 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)

Section 732.APPENDIX B Additional Parameters ~~(Repealed)~~

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)

Section 732.APPENDIX C Backfill Volumes ~~(Repealed)~~

Volume of Tank in Gallons Maximum amount of backfill material to be removed: ~~Cubic~~
~~yards~~ Maximum amount of backfill material to be replaced: ~~Cubic~~
~~yards~~
~~<285285 to 299300 to 559560 to 999~~ Cubic yards Cubic yards ~~< 2855456285 to~~
2995557300 to 5595658560 to 99967701000 to 104981871050 to 114989961150 to
1999941012000 to 24991121242500 to 29991281433000 to 39991431614000 to
49991751985000 to 59991892196000 to 74991982357500 to 82992062508300 to
999921926810,000 to 11,99925231212,000 to 14,999286357>15,000345420
~~1000 to 1049~~
~~1050 to 1149~~
~~1150 to 1999~~
~~2000 to 2499~~
~~2500 to 2999~~
~~3000 to 3999~~
~~4000 to 4999~~
~~5000 to 5999~~
~~6000 to 7499~~
~~7500 to 8299~~
~~8300 to 9999~~
~~10,000 to 11,999~~
~~12,000 to 14,999~~
~~>15,000~~ 54
55
56
67
81
89
94
112
128
143
175
189

198
 206
 219
 252
 286
 34556
 57
 58
 70
 87
 96
 101
 124
 143
 161
 198
 219
 235
 250
 268
 312
 357
 420

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

Section 732.APPENDIX D Sample Handling and Analysis—(Repealed)

Max. Total Amount

per Sample	Chemical	BETX Soil with MTBE	\$85	BETX Water with MTBE	
\$81	COD (Chemical Oxygen Demand)		\$30	Corrosivity	\$15
Point or Ignitability Analysis EPA 1010			\$33	FOC (Fraction Organic Carbon)	\$60
\$38	Fat, Oil, & Grease (FOG)			LUST Pollutants Soil	
- analysis must include all volatile, base/neutral, polynuclear aromatic, and metal parameters listed in Section 732. Appendix B Appendix B 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)	\$44	TOC (Total Organic Carbon) EPA 9060A
		\$31	TPH (Total Petroleum Hydrocarbons)	\$175	VOC (Volatile Organic Compound) - Soil (Non-Aqueous)
				\$169	VOC (Volatile Organic Compound) - Water
Geo-Technical	Bulk Density ASTM D4292 / D2937		\$22	Ex-Situ Hydraulic Conductivity / Permeability	
D4643-87	\$12	Porosity	\$255	Moisture Content ASTM D2216-90 /	
\$350	Sieve / Particle Size Analysis ASTM D422-63 / D1140-54		\$30	Rock Hydraulic Conductivity Ex-Situ	
			\$145	Soil Classification ASTM D2488-90 / D2487-90	
<u>Metals</u>	<u>Arsenic</u> TCLP Soil		\$68	<u>Metals</u> Arsenic	
		\$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
Other <u>En</u> Core(r) 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*	

Section 732.APPENDIX E Personnel Titles and Rates—(Repealed)

Title	Degree Required	Ill. License
Req'd.	Min. Yrs.	Experience
Max.	Hourly	Rate
Engineer I	Engineer II	Engineer III
Professional Engineer	Senior Prof. Engineer	Bachelor's in Engineering
Bachelor's in Engineering	Bachelor's in Engineering	Bachelor's in Engineering
Bachelor's in Engineering	Bachelor's in Engineering	Bachelor's in Engineering
Bachelor's in Engineering	Bachelor's in Engineering	None
None	None	P.E.
P.E.0	2	4
4	8	\$75
\$85	\$100	\$110
\$130	Geologist I	Geologist II
Geologist III	Professional Geologist	Senior Prof. Geologist
Bachelor's in Geology or Hydrogeology	Bachelor's in Geology or Hydrogeology	Bachelor's in Geology or Hydrogeology
Bachelor's in Geology or Hydrogeology	Bachelor's in Geology or Hydrogeology	Bachelor's in Geology or Hydrogeology
Bachelor's in Geology or Hydrogeology	Bachelor's in Geology or Hydrogeology	None
None	None	P.G.
P.G.0	2	4

4
8\$70
\$75
\$88
\$92
\$110Scientist I
Scientist II
Scientist III
Scientist IV
Senior ScientistBachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical Science
Bachelor's in a Natural or Physical ScienceNone
None
None
None
None0
2
4
6
8\$60
\$65
\$70
\$75
\$85Project Manager
Senior Project ManagerNone
NoneNone
None81
121\$90
\$100Technician I
Technician II
Technician III
Technician IV
Senior TechnicianNone
None
None
None
NoneNone
None
None
None
None0
21
41
61
81\$45
\$50
\$55
\$60
\$65Account Technician I
Account Technician II
Account Technician III
Account Technician IV
Senior Acct. TechnicianNone
None
None

None
NoneNone
None
None
None
None0
22
42
62
82\$35
\$40
\$45
\$50
\$55Administrative Assistant I
Administrative Assistant II
Administrative Assistant III
Administrative Assistant IV
Senior Admin. AssistantNone
None
None
None
NoneNone
None
None
None
None0
23
43
63
83\$25
\$30
\$35
\$40
\$45Draftperson/CAD I
Draftperson/CAD II
Draftperson/CAD III
Draftperson/CAD IV
Senior Draftperson/CADNone
None
None
None
NoneNone
None
None
None
None0
24
44
64
84\$40
\$45
\$50
\$55
\$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.

JCAR350732-1116191r01

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

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Padding cell	

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Moved to	4
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Format changed	0
Total changes	384

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL
AND UNDERGROUND STORAGE TANK PROGRAMS

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STATE OF ILLINOIS
Pollution Control Board

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

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732.101	Election to Proceed under Part 732
732.102	Severability
732.103	Definitions
732.104	Incorporations by Reference
732.105	Agency Authority to Initiate Investigative, Preventive or Corrective Action
732.106	Laboratory Certification
732.108	Licensed Professional Engineer or Licensed Professional Geologist Supervision
732.110	Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications
732.112	Notification of Field Activities
732.114	LUST Advisory Committee

SUBPART B: EARLY ACTION

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732.201	Agency Authority to Initiate
732.202	Early Action
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732.204	Application for Payment of Early Action Costs

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- 44 732.305 Plan Submittal and Review
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- 46 732.307 Site Evaluation
- 47 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells
- 48 732.309 Site Classification Completion Report
- 49 732.310 Indicator Contaminants
- 50 732.311 Groundwater Remediation Objectives
- 51 732.312 Classification by Exposure Pathway Exclusion

52

53

SUBPART D: CORRECTIVE ACTION

54

55 Section

- 56 732.400 General
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- 66 732.410 "No Further Remediation" Letter (Repealed)
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68

69

SUBPART E: REVIEW OF PLANS, BUDGET PLANS, AND REPORTS

70

71 Section

- 72 732.500 General
- 73 732.501 Submittal of Plans or Reports (Repealed)
- 74 732.502 Completeness Review (Repealed)
- 75 732.503 Review of Plans, Budget Plans, or Reports
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- 77 732.505 Standards for Review of Plans, Budget Plans, or Reports

78

79

SUBPART F: PAYMENT FROM THE FUND

80

81 Section

- 82 732.600 General
- 83 732.601 Applications for Payment
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- 85 732.603 Authorization for Payment; Priority List
- 86 732.604 Limitations on Total Payments

87	732.605	Eligible Corrective Action_Costs
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91	732.609	Subrogation of Rights
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117		Above Grade Structures
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126	732.APPENDIX A	Indicator Contaminants
127	732.APPENDIX B	Additional Parameters
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 131 732.ILLUSTRATION A Equation for Groundwater Transport (Repealed)
 132 732.ILLUSTRATION B Equation for Soil-Groundwater Relationship (Repealed)
 133 732.ILLUSTRATION C Equation for Calculating Groundwater Objectives at the Source
 134 (Repealed)
 135 732.ILLUSTRATION D Equation for Calculating Soil Objectives at the Source (Repealed)
 136 732.TABLE A Groundwater and Soil Remediation Objectives (Repealed)
 137 732.TABLE B Soil Remediation Methodology: Model Parameter Values
 138 (Repealed)
 139 732.TABLE C Soil Remediation Methodology: Chemical Specific Parameters
 140 (Repealed)
 141 732.TABLE D Soil Remediation Methodology: Objectives (Repealed)
 142

143 AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of
 144 the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17].
 145

146 SOURCE: Adopted in R94-2 at 18 Ill. Reg. 15008, effective September 23, 1994; amended in
 147 R97-10 at 21 Ill. Reg. 3617, effective July 1, 1997; amended in R01-26 at 26 Ill. Reg. 7119,
 148 effective April 29, 2002; amended in R04-22/23 at 30 Ill. Reg. 4928, effective March 1, 2006;
 149 amended in R07-17 at 31 Ill. Reg. 16131, effective November 21, 2007; repealed at 35 Ill. Reg.
 150 _____, effective _____.
 151

152 SUBPART A: GENERAL
 153

154 **Section 732.100 Applicability**
 155

- 156 a) This Part applies to owners or operators of any underground storage tank system
 157 used to contain petroleum and for which a release was reported to Illinois
 158 Emergency Management Agency (IEMA) on or after September 23, 1994, but
 159 prior to June 24, 2002, in accordance with regulations adopted by the Office of
 160 the State Fire Marshal (OSFM). It also applies to owners or operators that, prior
 161 to June 24, 2002, elected to proceed in accordance with this Part pursuant to
 162 Section 732.101 of this Part. This Part does not apply to owners or operators of
 163 sites for which the OSFM does not require a report to IEMA or for which the
 164 OSFM has issued or intends to issue a certificate of removal or abandonment
 165 pursuant to Section 57.5 of the Act.
 166
 167 b) Upon the receipt of a corrective action order issued by the OSFM prior to June 24,
 168 2002, and pursuant to Section 57.5(g) of the Act, where the OSFM has
 169 determined that a release poses a threat to human health or the environment, the
 170 owner or operator of any underground storage tank system used to contain
 171 petroleum and taken out of operation before January 2, 1974, or any underground
 172 storage tank system used exclusively to store heating oil for consumptive use on

173 the premises where stored and which serves other than a farm or residential unit
 174 shall conduct corrective action in accordance with this Part.
 175

- 176 c) Owners or operators subject to this Part by law or by election shall proceed
 177 expeditiously to comply with all requirements of the Act and the regulations and
 178 to obtain the No Further Remediation Letter signifying final disposition of the site
 179 for purposes of this Part. The Agency may use its authority pursuant to the Act
 180 and Section 732.105 of this Part to expedite investigative, preventive or corrective
 181 action by an owner or operator or to initiate such action.
 182
- 183 d) The following underground storage tank systems are excluded from the
 184 requirements of this Part:
 185
- 186 1) Equipment or machinery that contains petroleum substances for
 187 operational purposes such as hydraulic lift tanks and electrical equipment
 188 tanks.
 189
 - 190 2) Any underground storage tank system whose capacity is 110 gallons or
 191 less.
 192
 - 193 3) Any underground storage tank system that contains a de minimis
 194 concentration of petroleum substances.
 195
 - 196 4) Any emergency spill or overfill containment underground storage tank
 197 system that is expeditiously emptied after use.
 198
 - 199 5) Any wastewater treatment tank system that is part of a wastewater
 200 treatment facility regulated under Section 402 or 307(b) of the Clean
 201 Water Act (33 USC 1251 *et seq.*).
 202
 - 203 6) Any UST system holding hazardous waste listed or identified under
 204 Subtitle C of the Solid Waste Disposal Act (42 USC 3251 *et seq.*) or a
 205 mixture of such hazardous waste or other regulated substances.
 206
- 207 e) Owners or operators subject to this Part may, pursuant to 35 Ill. Adm. Code
 208 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this
 209 Part.
 210

211 **Section 732.101 Election to Proceed under Part 732**
 212

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

216 proceed in accordance with this Part by submitting to the Agency a written
 217 statement of such election signed by the owner or operator. The election became
 218 effective upon receipt by the Agency and shall not be withdrawn. However, an
 219 owner or operator that elected to proceed in accordance with this Part may,
 220 pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill.
 221 Adm. Code 734 instead of this Part.
 222

223 b) Prior to June 24, 2002, except as provided in Section 732.100(b) of this Part,
 224 owners or operators of underground storage tanks (USTs) used exclusively to
 225 store heating oil for consumptive use on the premises where stored and that serve
 226 other than a farm or residential unit were able to elect to proceed in accordance
 227 with this Part by submitting to the Agency a written statement of such election
 228 signed by the owner or operator. The election became effective upon receipt by
 229 the Agency and shall not be withdrawn. However, an owner or operator that
 230 elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm.
 231 Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead
 232 of this Part.
 233

234 c) If the owner or operator elected to proceed pursuant to this Part, corrective action
 235 costs incurred in connection with the release and prior to the notification of
 236 election shall be payable from the Fund in the same manner as was allowable
 237 under the law applicable to the owner or operator prior to the notification of
 238 election. Corrective action costs incurred after the notification of election shall be
 239 payable from the Fund in accordance with this Part. Corrective action costs
 240 incurred on or after the effective date of an election to proceed in accordance with
 241 35 Ill. Adm. Code 734 shall be payable from the Fund in accordance with that
 242 Part.
 243

244 **Section 732.102 Severability**

245
 246 If any provision of this Part or its application to any person or under any circumstances is
 247 adjudged invalid, such adjudication shall not affect the validity of this Part as a whole or of any
 248 portion not adjudged invalid.
 249

250 **Section 732.103 Definitions**

251
 252 Except as stated in this Section, or unless a different meaning of a word or term is clear from the
 253 context, the definitions of words or terms in this Part shall be the same as that applied to the
 254 same words or terms in the Environmental Protection Act [415 ILCS 5].
 255

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

257
 258 "Agency" means the Illinois Environmental Protection Agency.

259
260 "Alternative Technology" means a process or technique, other than conventional
261 technology, used to perform a corrective action with respect to soils contaminated
262 by releases of petroleum from an underground storage tank.
263
264 "Board" means the Illinois Pollution Control Board.
265
266 *"Bodily Injury" means bodily injury, sickness, or disease sustained by a person,*
267 *including death at any time, resulting from a release of petroleum from an*
268 *underground storage tank [415 ILCS 5/57.2].*
269
270 "Class I Groundwater" means groundwater that meets the Class I: potable
271 resource groundwater criteria set forth in the Board regulations adopted
272 pursuant to the Illinois Groundwater Protection Act [415 ILCS 5/57.2].
273
274 "Class III Groundwater" means groundwater that meets the Class III: special
275 resource groundwater criteria set forth in the Board regulations adopted
276 pursuant to the Illinois Groundwater Protection Act [415 ILCS 5/57.2].
277
278 "Community water supply" means a public water supply which serves or is
279 intended to serve at least 15 service connections used by residents or regularly
280 serves at least 25 residents [415 ILCS 5/3.145].
281
282 "Confirmed Exceedence" means laboratory verification of an exceedence of the
283 applicable remediation objectives.
284
285 "Confirmation of a Release" means the confirmation of a release of petroleum in
286 accordance with regulations promulgated by the Office of the State Fire Marshal
287 at 41 Ill. Adm. Code 170.
288
289 "Confirmed Release" means a release of petroleum that has been confirmed in
290 accordance with regulations promulgated by the Office of the State Fire Marshal
291 at 41 Ill. Adm. Code 170.
292
293 "Conventional Technology" means a process or technique to perform a corrective
294 action by removal, transportation and disposal of soils contaminated by a release
295 of petroleum from an underground storage tank in accordance with applicable
296 laws and regulations, but without processing to remove petroleum from the soils.
297
298 *"Corrective action" means activities associated with compliance with the*
299 *provisions of Sections 57.6 and 57.7 of the Act [415 ILCS 5/57.2].*
300

301 "County Highway" means county highway as defined in the Illinois Highway
302 Code [605 ILCS 5].
303

304 "District Road" means a district road as defined in the Illinois Highway Code
305 [605 ILCS 5].
306

307 "Environmental Land Use Control" means Environmental Land Use Control as
308 defined in 35 Ill. Adm. Code 742.200.
309

310 "Federal Landholding Entity" means that federal department, agency or
311 instrumentality with the authority to occupy and control the day-to-day use,
312 operation and management of Federally Owned Property.
313

314 "Federally Owned Property" means real property owned in fee simple by the
315 United States on which an institutional control is or institutional controls are
316 sought to be placed in accordance with this Part.
317

318 "Fill Material" *means non-native or disturbed materials used to bed and backfill*
319 *around an underground storage tank [415 ILCS 5/57.2].*
320

321 "Financial Interest" means any ownership interest, legal or beneficial, or being in
322 the relationship of director, officer, employee, or other active participant in the
323 affairs of a party. Financial interest does not include ownership of publicly traded
324 stock.
325

326 "Free Product" means a contaminant that is present as a non-aqueous phase liquid
327 for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in
328 water).
329

330 "Full Accounting" means a compilation of documentation to establish,
331 substantiate and justify the nature and extent of the corrective action costs
332 incurred by an owner or operator.
333

334 "Fund" *means the Underground Storage Tank Fund [415 ILCS 5/57.2].*
335

336 "GIS" means Geographic Information System.
337

338 "GPS" means Global Positioning System.
339

340 "Groundwater" *means underground water which occurs within the saturated zone*
341 *and geologic materials where the fluid pressure in the pore space is equal to or*
342 *greater than atmospheric pressure [415 ILCS 5/3.210].*
343

344 "Half-day" means four hours, or a fraction thereof, of billable work time. Half-
345 days must be based upon the total number of hours worked in one calendar day.
346 The total number of half-days per calendar day may exceed two.
347

348 "Handling Charges" means administrative, insurance, and interest costs and a
349 reasonable profit for procurement, oversight, and payment of subcontracts and
350 field purchases.
351

352 "Heating Oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No.
353 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; and other residual fuel
354 oils including navy special fuel oil and bunker C. [415 ILCS 5/57.2]
355

356 "Highway Authority" means the Illinois Department of Transportation with
357 respect to a State highway; the Illinois State Toll Highway Authority with respect
358 to a toll highway; the county board with respect to a county highway or a county
359 unit district road if a discretionary function is involved and the county
360 superintendent of highways if a ministerial function is involved; the highway
361 commissioner with respect to a township or district road not in a county or unit
362 road district; or the corporate authorities of a municipality with respect to a
363 municipal street [605 ILCS 5/2-213].
364

365 "Highway Authority Agreement" means an agreement with a highway authority
366 that meets the requirements of 35 Ill. Adm. Code 742.1020.
367

368 "IEMA" means the Illinois Emergency Management Agency.
369

370 "Indemnification" means indemnification of an owner or operator for the amount
371 of judgment entered against the owner or operator in a court of law, for the
372 amount of any final order or determination made against the owner or operator
373 by any agency of State government or any subdivision thereof, or for the amount
374 of any settlement entered into by the owner or operator, if the judgment, order,
375 determination, or settlement arises out of bodily injury or property damage
376 suffered as a result of a release of petroleum from an underground storage tank
377 owned or operated by the owner or operator [415 ILCS 5/57.2].
378

379 "Indicator Contaminants" means the indicator contaminants set forth in Section
380 732.310 of this Part.
381

382 "Institutional Control" means a legal mechanism for imposing a restriction on
383 land use as described in 35 Ill. Adm. Code 742, Subpart J.
384

385 "Land Use Control Memorandum of Agreement" means an agreement entered
386 into between one or more agencies of the United States and the Illinois

387 Environmental Protection Agency that limits or places requirements upon the use
388 of Federally Owned Property for the purpose of protecting human health or the
389 environment, or that is used to perfect a No Further Remediation Letter that
390 contains land use restrictions.

391
392 "Licensed Professional Engineer" *means a person, corporation or partnership*
393 *licensed under the laws of the State of Illinois to practice professional*
394 *engineering [415 ILCS 5/57.2].*

395
396 "Licensed Professional Geologist" *means a person licensed under the laws of the*
397 *State of Illinois to practice as a professional geologist [415 ILCS 5/57.2].*

398
399 "Man-made Pathway" means constructed routes that may allow for the transport
400 of mobile petroleum free-liquid or petroleum-based vapors including, but not
401 limited to, sewers, utility lines, utility vaults, building foundations, basements,
402 crawl spaces, drainage ditches or previously excavated and filled areas.

403
404 "Monitoring Well" means a water well intended for the purpose of determining
405 groundwater quality or quantity.

406
407 "Natural Pathway" means natural routes for the transport of mobile petroleum
408 free-liquid or petroleum-based vapors including, but not limited to, soil,
409 groundwater, sand seams and lenses, and gravel seams and lenses.

410
411 "Non-community Water Supply" *means a public water supply that is not a*
412 *community water supply [415 ILCS 5/3.145].*

413
414 "Occurrence" *means an accident, including continuous or repeated exposure to*
415 *conditions, that results in a sudden or nonsudden release from an underground*
416 *storage tank [415 ILCS 5/57.2].*

417
418 "OSFM" means the Office of the State Fire Marshal.

419
420 "Operator" means any person in control of, or having responsibility for, the daily
421 operation of the underground storage tank. (Derived from 42 USC 6991)
422 BOARD NOTE: A person who voluntarily undertakes action to remove an
423 underground storage tank system from the ground shall not be deemed an
424 "operator" merely by the undertaking of such action.

425
426 "Owner" means:

427
428 In the case of an underground storage tank in use on November 8, 1984, or
429 brought into use after that date, any person who owns an underground

430 storage tank used for the storage, use or dispensing of regulated
431 substances;

432
433 In the case of any underground storage tank in use before November 8,
434 1984, but no longer in use on that date, any person who owned such
435 underground storage tank immediately before the discontinuation of its
436 use; (Derived from 42 USC 6991)

437
438 *Any person who has submitted to the Agency a written election to proceed*
439 *under the underground storage tank program and has acquired an*
440 *ownership interest in a site on which one or more registered tanks have*
441 *been removed, but on which corrective action has not yet resulted in the*
442 *issuance of a "No Further Remediation Letter" by the Agency pursuant to*
443 *the underground storage tank program [415 ILCS 5/57.2].*

444
445 "Perfect" or "Perfected" means recorded or filed for record so as to place the
446 public on notice, or as otherwise provided in Section 732.703(c) and (d) of this
447 Part.

448
449 "Person" means, for the purposes of interpreting the definitions of the terms
450 "owner" or "operator," an individual, trust, firm, joint stock company, joint
451 venture, consortium, commercial entity, corporation (including a government
452 corporation), partnership, association, state, municipality, commission, political
453 subdivision of a state, or any interstate body and shall include the United States
454 Government and each department, agency, and instrumentality of the United
455 States. (Derived from 42 USC 6991)

456
457 "Petroleum" means petroleum, including crude oil or any fraction thereof which is
458 liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds
459 per square inch absolute). (Derived from 42 USC 6991)

460
461 "Physical Soil Classification" *means verification of geological conditions*
462 *consistent with regulations for identifying and protecting potable resource*
463 *groundwater or verification that subsurface strata are as generally mapped in the*
464 *publication Illinois Geological Survey Circular (1984) entitled "Potential For*
465 *Contamination Of Shallow Aquifers In Illinois," by Berg, Richard C., et al. Such*
466 *classification may include review of soil borings, well logs, physical soil analysis,*
467 *regional geologic maps, or other scientific publication. [415 ILCS 5/57.2]*

468
469 "Potable" *means generally fit for human consumption in accordance with*
470 *accepted water supply principles and practices [415 ILCS 5/3.340].*

471
472 "Practical quantitation limit" or "PQL" means the lowest concentration that can be

473 reliably measured within specified limits of precision and accuracy for a specific
474 laboratory analytical method during routine laboratory operating conditions in
475 accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical
476 Methods," EPA Publication No. SW-846, incorporated by reference at Section
477 732.104 of this Part. For filtered water samples, PQL also means the Method
478 Detection Limit or Estimated Detection Limit in accordance with the applicable
479 method revision in: "Methods for the Determination of Metals in Environmental
480 Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the
481 Determination of Metals in Environmental Samples, Supplement I," EPA
482 Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic
483 Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039;
484 "Methods for the Determination of Organic Compounds in Drinking Water,
485 Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the
486 Determination of Organic Compounds in Drinking Water, Supplement III," EPA
487 Publication No. EPA/600/R-95/131, all of which are incorporated by reference at
488 Section 732.104 of this Part.

489
490 "*Property Damage*" means *physical injury to, destruction of, or contamination of*
491 *tangible property* owned by a person other than an owner or operator of the UST
492 from which a release of petroleum has occurred and which tangible property is
493 located off the site where the release occurred. Property damage includes *all*
494 *resulting loss of use of that property; or loss of use of tangible property that is not*
495 *physically injured, destroyed or contaminated, but has been evacuated,*
496 *withdrawn from use, or rendered inaccessible because of a release of petroleum*
497 *from an underground storage tank* [415 ILCS 5/57.2].

498
499 "*Public Water Supply*" means *all mains, pipes and structures through which*
500 *water is obtained and distributed to the public, including wells and well*
501 *structures, intakes and cribs, pumping stations, treatment plants, reservoirs,*
502 *storage tanks and appurtenances, collectively or severally, actually used or*
503 *intended for use for the purpose of furnishing water for drinking or general*
504 *domestic use and which serve at least 15 service connections or which regularly*
505 *serve at least 25 persons at least 60 days per year. A public water supply is either*
506 *a "community water supply" or a "non-community water supply"* [415 ILCS
507 5/3.365].

508
509 "*Registration*" means registration of an underground storage tank with the OSFM
510 in accordance with Section 4 of the Gasoline Storage Act [430 ILCS 15/4].

511
512 "*Regulated recharge area*" means *a compact geographic area, as determined by*
513 *the Board, the geology of which renders a potable resource groundwater*
514 *particularly susceptible to contamination* [415 ILCS 5/3.390].
515

516 "Regulated Substance" means any substance defined in Section 101(14) of the
517 Comprehensive Environmental Response, Compensation, and Liability Act of
518 1980 (42 USC Sec. 9601(14)) (but not including any substance regulated as a
519 hazardous waste under subtitle C of the Resource Conservation and Recovery Act
520 (42 USC 6921 et seq.)), and petroleum. (Derived from 42 USC 6991)
521

522 "Release" *means any spilling, leaking, emitting, discharging, escaping, leaching,*
523 *or disposing of petroleum from an underground storage tank into groundwater,*
524 *surface water or subsurface soils [415 ILCS 5/57.2].*
525

526 "Residential Tank" means an underground storage tank located on property used
527 primarily for dwelling purposes.
528

529 "Residential Unit" means a structure used primarily for dwelling purposes
530 including multi-unit dwellings such as apartment buildings, condominiums,
531 cooperatives or dormitories.
532

533 "Right-of-way" means *the land, or interest therein, acquired for or devoted to a*
534 *highway [605 ILCS 5/2-217].*
535

536 "Setback Zone" *means a geographic area, designated pursuant to the Act or*
537 *regulations (see 35 Ill. Adm. Code, Subtitle F), containing a potable water supply*
538 *well or a potential source or potential route, having a continuous boundary, and*
539 *within which certain prohibitions or regulations are applicable in order to protect*
540 *groundwater [415 ILCS 5/3.450].*
541

542 "Site" *means any single location, place, tract of land or parcel of property*
543 *including contiguous property not separated by a public right-of-way [415 ILCS*
544 *5/57.2].*
545

546 "State Highway" means a State highway as defined in the Illinois Highway Code
547 [605 ILCS 5].
548

549 "Stratigraphic Unit" means a site-specific geologic unit of native deposited
550 material and/or bedrock of varying thickness (e.g., sand, gravel, silt, clay,
551 bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct
552 contrast in geologic material or a change in physical features within a zone of
553 gradation. For the purposes of this Part, a change in stratigraphic unit is identified
554 by one or a combination of differences in physical features such as texture,
555 cementation, fabric, composition, density, and/or permeability of the native
556 material and/or bedrock.
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558 "Street" means a street as defined in the Illinois Highway Code [605 ILCS 5].

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"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;

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

604
605 Storage tank situated in an underground area (such as a basement, cellar,
606 mineworking, drift, shaft, or tunnel) if the storage tank is situated on or
607 above the surface of the floor. (Derived from 42 USC 6991)

608
609 *The term "underground storage tank" shall also mean an underground storage*
610 *tank used exclusively to store heating oil for consumptive use on the premises*
611 *where stored and which serves other than a farm or residential unit [415 ILCS*
612 *5/57.2].*

613
614 "UST System" or "Tank System" means an underground storage tank, connected
615 underground piping, underground ancillary equipment, and containment system,
616 if any.

617
618 "Wellhead Protection Area" means the wellhead protection area of a community
619 water supply well as determined under the Agency's wellhead protection program
620 pursuant to 42 USC 300h-7.

621
622 **Section 732.104 Incorporations by Reference**

623
624 a) The Board incorporates the following material by reference:

625
626 ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive,
627 P.O. Box C700, West Conshohocken, PA 19428-2959 (610) 832-9585

628
629 ASTM D 422-63, Standard Test Method for Particle-Size Analysis of
630 Soils, approved November 21, 1963 (reapproved 1990).

631
632 ASTM D 1140-92, Standard Test Method for Amount of Material in Soils
633 Finer than the No. 200 (75 µm) Sieve, approved November 15, 1992.

634
635 ASTM D 2216-92, Standard Test Method for Laboratory Determination of
636 Water (Moisture) Content of Soil and Rock, approved June 15, 1992.

637
638 ASTM D 4643-93, Standard Test Method for Determination of Water
639 (Moisture) Content of Soil by the Microwave Oven Method, approved
640 July 15, 1993.

641
642 ASTM D 2487-93, Standard Test Method for Classification of Soils for
643 Engineering Purposes, approved September 15, 1993.

644

645 ASTM D 2488-93, Standard Practice for Description and Identification of
646 Soils (Visual-Manual Procedure), approved September 15, 1993.
647
648 ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic
649 Conductivity of Saturated Porous Materials Using a Flexible Wall
650 Permeameter, approved June 22, 1990.
651
652 ASTM D 4525-90, Standard Test Method for Permeability of Rocks by
653 Flowing Air, approved May 25, 1990.
654
655 ASTM D 1587-83, Standard Practice for Thin-Walled Tube Sampling of
656 Soils, approved August 17, 1983.
657
658 ISGS. Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL
659 61820-6964 (217) 333-4747
660
661 Richard C. Berg, John P. Kempton, Keros Cartwright, "Potential for
662 Contamination of Shallow Aquifers in Illinois" (1984), Circular No. 532.
663
664 NTIS. National Technical Information Service, 5285 Port Royal Road,
665 Springfield, VA 22161 (703) 605-6000 or (800) 553-6847
666
667 "Methods for the Determination of Metals in Environmental Samples,"
668 EPA Publication No. EPA/600/4-91/010 (June 1991);
669
670 "Methods for the Determination of Metals in Environmental Samples,
671 Supplement I," EPA Publication No. EPA/600/R-94/111 (May 1994);
672
673 "Methods for the Determination of Organic Compounds in Drinking
674 Water," EPA Publication No. EPA/600/4-88/039 (December 1988)
675 (revised July 1991);
676
677 "Methods for the Determination of Organic Compounds in Drinking
678 Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August
679 1992);
680
681 "Methods for the Determination of Organic Compounds in Drinking
682 Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August
683 1995);
684
685 "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods,"
686 EPA Publication No. SW-846, Third Edition (September 1986), as
687 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.

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(c) 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.

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

730 Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part must be
731 prepared under the supervision of a Licensed Professional Engineer.
732

733 **Section 732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures and**
734 **Certifications**
735

- 736 a) All plans, budget plans, and reports must be submitted to the Agency on forms
737 prescribed and provided by the Agency and, if specified by the Agency in writing,
738 in an electronic format. At a minimum, all site maps submitted to the Agency
739 must meet the following requirements:
740
- 741 1) The maps must be of sufficient detail and accuracy to show required
742 information;
743
 - 744 2) The maps must contain the map scale, an arrow indicating north
745 orientation, and the date the map was created; and
746
 - 747 3) The maps must show the following:
748
 - 749 A) The property boundary lines of the site, properties adjacent to the
750 site, and other properties that are, or may be, adversely affected by
751 the release;
752
 - 753 B) The uses of the site, properties adjacent to the site, and other
754 properties that are, or may be, adversely affected by the release;
755
 - 756 C) The locations of all current and former USTs at the site, and the
757 contents of each UST; and
758
 - 759 D) All structures, other improvements, and other features at the site,
760 properties adjacent to the site, and other properties that are, or may
761 be, adversely affected by the release, including but not limited to
762 buildings, pump islands, canopies, roadways and other paved
763 areas, utilities, easements, rights-of-way, and actual or potential
764 natural or man-made pathways.
765
- 766 b) All plans, budget plans, and reports must be mailed or delivered to the address
767 designated by the Agency. The Agency's record of the date of receipt must be
768 deemed conclusive unless a contrary date is proven by a dated, signed receipt
769 executed by Agency personnel acknowledging receipt of documents by hand
770 delivery or messenger or from certified or registered mail.
771

- 772 c) All plans, budget plans, and reports must be signed by the owner or operator and
773 list the owner's or operator's full name, address, and telephone number.
774
- 775 d) All plans, budget plans, and reports submitted pursuant to this Part, excluding
776 Corrective Action Completion Reports submitted pursuant to Section 732.300(b)
777 or 732.409 of this Part, must contain the following certification from a Licensed
778 Professional Engineer or Licensed Professional Geologist. Corrective Action
779 Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this
780 Part must contain the following certification from a Licensed Professional
781 Engineer.
782

783 I certify under penalty of law that all activities that are the subject of this
784 plan, budget plan, or report were conducted under my supervision or were
785 conducted under the supervision of another Licensed Professional
786 Engineer or Licensed Professional Geologist and reviewed by me; that this
787 plan, budget plan, or report and all attachments were prepared under my
788 supervision; that, to the best of my knowledge and belief, the work
789 described in the plan, budget plan, or report has been completed in
790 accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill.
791 Adm. Code 732, and generally accepted standards and practices of my
792 profession; and that the information presented is accurate and complete. I
793 am aware there are significant penalties for submitting false statements or
794 representations to the Agency, including but not limited to fines,
795 imprisonment, or both as provided in Sections 44 and 57.17 of the
796 Environmental Protection Act [415 ILCS 5/44 and 57.17].
797

- 798 e) Except in the case of sites subject to Section 732.703(c) or (d) of this Part, reports
799 documenting the completion of corrective action at a site must contain a form
800 addressing site ownership. At a minimum, the form must identify the land use
801 limitations proposed for the site, if land use limitations are proposed; the site's
802 common address, legal description, and real estate tax/parcel index number; and
803 the names and addresses of all title holders of record of the site or any portion of
804 the site. The form must also contain the following certification, by original
805 signature, of all title holders of record of the site or any portion of the site, or the
806 agent(s) of such person(s):
807

808 I hereby affirm that I have reviewed the attached report entitled _____ and
809 dated _____, and that I accept the terms and conditions set forth therein,
810 including any land use limitations, that apply to property I own. I further
811 affirm that I have no objection to the recording of a No Further
812 Remediation Letter containing the terms and conditions identified in the
813 report upon the property I own.
814

815 **Section 732.112 Notification of Field Activities**

816
817 The Agency may require owners and operators to notify the Agency of field activities prior to the
818 date the field activities take place. The notice must include information prescribed by the
819 Agency, and may include, but is not limited to, a description of the field activities to be
820 conducted, the person conducting the activities, and the date, time, and place the activities will
821 be conducted. The Agency may, but is not required to, allow notification by telephone,
822 facsimile, or electronic mail. This Section does not apply to activities conducted within 45 days
823 plus 14 days after initial notification to IEMA of a release, or to free product removal activities
824 conducted within 45 days plus 14 days after the confirmation of the presence of free product.

825
826 **Section 732.114 LUST Advisory Committee**

827
828 Once each calendar quarter the Agency must meet with a LUST Advisory Committee to discuss
829 the Agency's implementation of this Part, provided that the Agency or members of the
830 Committee raise one or more issues for discussion. The LUST Advisory Committee must
831 consist of the following individuals: one member designated by the Illinois Petroleum Marketers
832 Association, one member designated by the Illinois Petroleum Council, one member designated
833 by the American Consulting Engineers Council of Illinois, one member designated by the Illinois
834 Society of Professional Engineers, one member designated by the Illinois Chapter of the
835 American Institute of Professional Geologists, two members designated by the Professionals of
836 Illinois for the Protection of the Environment, one member designated by the Illinois Association
837 of Environmental Laboratories, one member designated by the Illinois Environmental
838 Regulatory Group, one member designated by the Office of the State Fire Marshal, and one
839 member designated by the Illinois Department of Transportation. Members of the LUST
840 Advisory Committee must serve without compensation.

841

842 SUBPART B: EARLY ACTION

843

844 **Section 732.200 General**

845
846 *Owners and operators of underground storage tanks shall, in response to all confirmed releases*
847 *of petroleum, comply with all applicable statutory and regulatory reporting and response*
848 *requirements. [415 ILCS 5/57.6] No work plan or corresponding budget plan shall be required*
849 *for conducting early action activities, excluding free product removal activities conducted more*
850 *than 45 days after confirmation of the presence of free product.*

851

852 **Section 732.201 Agency Authority to Initiate**

853
854 Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to
855 require or initiate early action activities in accordance with the remainder of this Subpart B.

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857 **Section 732.202 Early Action**

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- 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.

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- 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*

944 or ex situ treatment of contaminated fill material removed from within 4 feet from
945 the outside dimensions of the tank. [415 ILCS 5/57.6(b)]
946

- 947 g) For purposes of payment from the Fund, the activities set forth in subsection (f) of
948 this Section shall be performed within 45 days after initial notification to IEMA
949 of a release plus 14 days, unless special circumstances, approved by the Agency
950 in writing, warrant continuing such activities beyond 45 days plus 14 days. The
951 owner or operator shall notify the Agency in writing of such circumstances within
952 45 days after initial notification to IEMA of a release plus 14 days. Costs
953 incurred beyond 45 days plus 14 days shall be eligible if the Agency determines
954 that they are consistent with early action.

955 BOARD NOTE: Owners or operators seeking payment from the Fund are to first
956 notify IEMA of a suspected release and then confirm the release within 14 days to
957 IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code
958 170.560 and 170.580. The Board is setting the beginning of the payment period
959 at subsection (g) to correspond to the notification and confirmation to IEMA.
960

- 961 h) The owner or operator shall determine whether the areas or locations of soil
962 contamination exposed as a result of early action excavation (e.g., excavation
963 boundaries, piping runs) or surrounding USTs that remain in place meet the most
964 stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the
965 applicable indicator contaminants.
966

- 967 1) At a minimum, for each UST that is removed, the owner or operator shall
968 collect and analyze soil samples as follows. The Agency must allow an
969 alternate location for, or excuse the collection of, one or more samples if
970 sample collection in the following locations is made impracticable by site-
971 specific circumstances.
972

- 973 A) One sample must be collected from each UST excavation wall.
974 The samples must be collected from locations representative of soil
975 that is the most contaminated as a result of the release. If an area
976 of contamination cannot be identified on a wall, the sample must
977 be collected from the center of the wall length at a point located
978 one-third of the distance from the excavation floor to the ground
979 surface. For walls that exceed 20 feet in length, one sample must
980 be collected for each 20 feet of wall length, or fraction thereof, and
981 the samples must be evenly spaced along the length of the wall.
982 For USTs abandoned in place, the samples must be collected via
983 borings drilled as close as practicable to the UST backfill.
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- 985 B) Two samples must be collected from the excavation floor below
986 each UST with a volume of 1,000 gallons or more. One sample

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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

1030 must be drilled in the native soil surrounding the UST(s) and as
 1031 close as practicable to, but not more than five feet from, the
 1032 backfill material surrounding the UST(s). Each boring must be
 1033 drilled to a depth of 30 feet below grade, or until groundwater or
 1034 bedrock is encountered, whichever is less. Borings may be drilled
 1035 below the groundwater table if site specific conditions warrant, but
 1036 no more than 30 feet below grade.
 1037

1038 B) Two borings, one on each side of the piping, must be drilled for
 1039 every 20 feet of UST piping, or fraction thereof, that remains in
 1040 place. The borings must be drilled as close practicable to, but not
 1041 more than five feet from, the locations of suspected piping
 1042 releases. If no release is suspected within a length of UST piping
 1043 being sampled, the borings must be drilled in the center of the
 1044 length being sampled. Each boring must be drilled to a depth of 15
 1045 feet below grade, or until groundwater or bedrock is encountered,
 1046 whichever is less. Borings may be drilled below the groundwater
 1047 table if site specific conditions warrant, but no more than 15 feet
 1048 below grade. For UST piping that is removed, samples must be
 1049 collected from the floor of the piping run in accordance with
 1050 subsection (h)(1)(C) of this Section.
 1051

1052 C) If auger refusal occurs during the drilling of a boring required
 1053 under subsection (h)(2)(A) or (B) of this Section, the boring must
 1054 be drilled in an alternate location that will allow the boring to be
 1055 drilled to the required depth. The alternate location must not be
 1056 more than five feet from the boring's original location. If auger
 1057 refusal occurs during drilling of the boring in the alternate location,
 1058 drilling of the boring must cease and the soil samples collected
 1059 from the location in which the boring was drilled to the greatest
 1060 depth must be analyzed for the applicable indicator contaminants.
 1061

1062 D) One soil sample must be collected from each five-foot interval of
 1063 each boring required under subsections (h)(2)(A) through (C) of
 1064 this Section. Each sample must be collected from the location
 1065 within the five-foot interval that is the most contaminated as a
 1066 result of the release. If an area of contamination cannot be
 1067 identified within a five-foot interval, the sample must be collected
 1068 from the center of the five-foot interval, provided, however, that
 1069 soil samples must not be collected from soil below the
 1070 groundwater table. All samples must be analyzed for the
 1071 applicable indicator contaminants.
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- 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

1116 recovery in compliance with Section 732.203 of this Part; or
1117

1118 C) There is evidence that contaminated soils may be or may have
1119 been in contact with groundwater, unless:

1120
1121 i) The owner or operator pumps the excavation or tank cavity
1122 dry, properly disposes of all contaminated water, and
1123 demonstrates to the Agency that no recharge is evident
1124 during the 24 hours following pumping; and
1125

1126 ii) The Agency determines that further groundwater
1127 investigation is not necessary.
1128

1129 **Section 732.203 Free Product Removal**
1130

1131 a) Under any circumstance in which conditions at a site indicate the presence of free
1132 product, owners or operators shall remove, to the maximum extent practicable,
1133 free product exceeding one-eighth of an inch in depth as measured in a
1134 groundwater monitoring well, or present as a sheen on groundwater in the tank
1135 removal excavation or on surface water, while initiating or continuing any actions
1136 required pursuant to this Part or other applicable laws or regulations. In meeting
1137 the requirements of this Section, owners or operators shall:
1138

1139 1) Conduct free product removal in a manner that minimizes the spread of
1140 contamination into previously uncontaminated zones by using recovery
1141 and disposal techniques appropriate to the hydrogeologic conditions at the
1142 site and that properly treats, discharges or disposes of recovery byproducts
1143 in compliance with applicable local, State and federal regulations;
1144

1145 2) Use abatement of free product migration as a minimum objective for the
1146 design of the free product removal system;
1147

1148 3) Handle any flammable products in a safe and competent manner to
1149 prevent fires or explosions;
1150

1151 4) Within 45 days after the confirmation of presence of free product from a
1152 UST, prepare and submit to the Agency a free product removal report.
1153 The report shall, at a minimum, provide the following:
1154

1155 A) The name of the persons responsible for implementing the free
1156 product removal measures;
1157

1158 B) The estimated quantity, type and thickness of free product

- 1159 observed or measured in wells, boreholes and excavations;
1160
1161 C) The type of free product recovery system used;
1162
1163 D) Whether any discharge will take place on-site or off-site during the
1164 recovery operation and where this discharge will be located;
1165
1166 E) The type of treatment applied to, and the effluent quality expected
1167 from, any discharge;
1168
1169 F) The steps that have been or are being taken to obtain necessary
1170 permits for any discharge;
1171
1172 G) The disposition of the recovered free product;
1173
1174 H) The steps taken to identify the source and extent of the free
1175 product; and
1176
1177 I) A schedule of future activities necessary to complete the recovery
1178 of free product still exceeding one-eighth of an inch in depth as
1179 measured in a groundwater monitoring well, or still present as a
1180 sheen on groundwater in the tank removal excavation or on surface
1181 water. The schedule must include, but not be limited to, the
1182 submission of plans and budgets required pursuant to subsections
1183 (c) and (d) of this Section; and
1184
1185 5) If free product removal activities are conducted more than 45 days after
1186 the confirmation of the presence of free product, submit free product
1187 removal reports in accordance with a schedule established by the Agency.
1188
1189 b) For purposes of payment from the Fund, owners or operators are not required to
1190 obtain Agency approval for free product removal activities conducted within 45
1191 days after the confirmation of the presence of free product.
1192
1193 c) If free product removal activities will be conducted more than 45 days after the
1194 confirmation of the presence of free product, the owner or operator must submit to
1195 the Agency for review a free product removal plan. The plan must be submitted
1196 with the free product removal report required under subsection (a)(4) of this
1197 Section. Free product removal activities conducted more than 45 days after the
1198 confirmation of the presence of free product must not be considered early action
1199 activities.
1200
1201 d) Any owner or operator intending to seek payment from the Fund must, prior to

1202 conducting free product removal activities more than 45 days after the
 1203 confirmation of the presence of free product, submit to the Agency a free product
 1204 removal budget plan with the corresponding free product removal plan. The
 1205 budget plan must include, but not be limited to, an estimate of all costs associated
 1206 with the development, implementation, and completion of the free product
 1207 removal plan, excluding handling charges. The budget plan should be consistent
 1208 with the eligible and ineligible costs listed in Sections 732.605 and 732.606 of
 1209 this Part and the maximum payment amounts set forth in Subpart H of this Part.
 1210 As part of the budget plan the Agency may require a comparison between the
 1211 costs of the proposed method of free product removal and other methods of free
 1212 product removal.
 1213

- 1214 e) Upon the Agency's approval of a free product removal plan, or as otherwise
 1215 directed by the Agency, the owner or operator must proceed with free product
 1216 removal in accordance with the plan.
 1217
- 1218 f) Notwithstanding any requirement under this Part for the submission of a free
 1219 product removal plan or free product removal budget plan, an owner or operator
 1220 may proceed with free product removal in accordance with this Section prior to
 1221 the submittal or approval of an otherwise required free product removal plan or
 1222 budget plan. However, any such removal plan and budget plan must be submitted
 1223 to the Agency for review and approval, rejection, or modification in accordance
 1224 with the procedures contained in Subpart E of this Part prior to payment for any
 1225 related costs or the issuance of a No Further Remediation Letter.
 1226 BOARD NOTE: Owners or operators proceeding under subsection (f) of this
 1227 Section are advised that they may not be entitled to full payment from the Fund.
 1228 Furthermore, applications for payment must be submitted no later than one year
 1229 after the date the Agency issues a No Further Remediation Letter. See Subpart F
 1230 of this Part.
 1231
- 1232 g) If, following approval of any free product removal plan or associated budget plan,
 1233 an owner or operator determines that a revised removal plan or budget plan is
 1234 necessary in order to complete free product removal, the owner or operator must
 1235 submit, as applicable, an amended free product removal plan or associated budget
 1236 plan to the Agency for review. The Agency must review and approve, reject, or
 1237 require modification of the removal amended plan or budget plan in accordance
 1238 with Subpart E of this Part.
 1239 BOARD NOTE: Owners and operators are advised that the total payment from
 1240 the Fund for all free product removal plans and associated budget plans submitted
 1241 by an owner or operator must not exceed the amounts set forth in Subpart H of
 1242 this Part.
 1243

1244 **Section 732.204 Application for Payment of Early Action Costs**

1245
 1246 Owners or operators intending to seek payment for early action activities, excluding free product
 1247 removal activities conducted more than 45 days after confirmation of the presence of free
 1248 product, are not required to submit a corresponding budget plan. The application for payment
 1249 may be submitted to the Agency upon completion of the early action activities in accordance
 1250 with the requirements at Subpart F of this Part, excluding free product removal activities
 1251 conducted more than 45 days after confirmation of the presence of free product. Applications for
 1252 payment of free product removal activities conducted more than 45 days after confirmation of
 1253 the presence of free product may be submitted upon completion of the free product removal
 1254 activities.

1255
 1256 **SUBPART C: SITE EVALUATION AND CLASSIFICATION**

1257
 1258 **Section 732.300 General**

- 1259
- 1260 a) Except as provided in subsection (b) of this Section, or unless the owner or
 1261 operator submits a report pursuant to Section 732.202(h)(3) of this Part
 1262 demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill.
 1263 Adm. Code 742 for the applicable indicator contaminants have been met, the
 1264 owner or operator of any site subject to this Part shall evaluate and classify the
 1265 site in accordance with the requirements of this Subpart C. All such sites shall be
 1266 classified as No Further Action, Low Priority or High Priority. Site classifications
 1267 shall be based on the results of the site evaluation, including, but not limited to,
 1268 the physical soil classification and the groundwater investigation, if applicable.
 1269
 - 1270 b) An owner or operator may choose to conduct remediation sufficient to satisfy the
 1271 remediation objectives in Section 732.408 of this Part as an alternative to
 1272 conducting site classification activities pursuant to this Subpart C provided that:
 1273
 - 1274 1) Upon completion of the remediation, the owner or operator shall submit a
 1275 corrective action completion report demonstrating compliance with the
 1276 required levels. The corrective action completion report must include, but
 1277 not be limited to, a narrative and timetable describing the implementation
 1278 and completion of all elements of the remediation and the procedures used
 1279 for the collection and analysis of samples, soil boring logs, actual
 1280 analytical results, laboratory certification, site maps, well logs, and any
 1281 other information or documentation relied upon by the Licensed
 1282 Professional Engineer in reaching the conclusion that the requirements of
 1283 the Act and regulations have been satisfied and that no further remediation
 1284 is required at the site.
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- 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

- 1372 Illinois Department of Public Health (or the county or local
1373 health department delegated by the Illinois Department of
1374 Public Health to permit potable water supply wells) to
1375 identify potable water supply wells other than community
1376 water supply wells; and
1377
- 1378 iii) Contacting the local public water supply entities to identify
1379 properties that receive potable water from a public water
1380 supply.
1381
- 1382 B) In addition to the potable water supply wells identified pursuant to
1383 subsection (b)(3)(A) of this Section, the owner or operator must
1384 extend the water supply well survey if soil or groundwater
1385 contamination exceeding the Tier 1 groundwater ingestion
1386 exposure route remediation objectives of 35 Ill. Adm. Code 742 for
1387 the applicable indicator contaminants extends beyond the site's
1388 property boundary, or, as part of remediation, the owner or
1389 operator leaves in place soil or groundwater contamination
1390 exceeding the Tier 1 groundwater ingestion exposure route
1391 remediation objectives of 35 Ill. Adm. Code 742 for the applicable
1392 indicator contaminants and contamination exceeding such
1393 objectives is modeled to migrate beyond the site's property
1394 boundary. At a minimum, the extended water supply well survey
1395 must identify the following:
1396
- 1397 i) All potable water supply wells located within 200 feet, and
1398 all community water supply wells located within 2,500 feet,
1399 of the current or modeled extent of soil or groundwater
1400 contamination exceeding the Tier 1 groundwater ingestion
1401 exposure route remediation objectives of 35 Ill. Adm. Code
1402 742 for the applicable indicator contaminants; and
1403
- 1404 ii) All regulated recharge areas and wellhead protection areas
1405 in which the current or modeled extent of soil or
1406 groundwater contamination exceeding the Tier 1
1407 groundwater ingestion exposure route remediation
1408 objectives of 35 Ill. Adm. Code 742 for the applicable
1409 indicator contaminants is located.
1410
- 1411 C) The Agency may require additional investigation of potable water
1412 supply wells, regulated recharge areas, or wellhead protection
1413 areas if site-specific circumstances warrant. Such circumstances
1414 must include, but are not limited to, the existence of one or more

1415 parcels of property within 200 feet of the current or modeled extent
 1416 of soil or groundwater contamination exceeding the Tier 1
 1417 groundwater ingestion exposure route remediation objectives of 35
 1418 Ill. Adm. Code 742 for the applicable indicator contaminants
 1419 where potable water is likely to be used, but that is not served by a
 1420 public water supply or a well identified pursuant to subsections
 1421 (b)(3)(A) or (b)(3)(b) of this Section. The additional investigation
 1422 may include, but is not limited to, physical well surveys (e.g.,
 1423 interviewing property owners, investigating individual properties
 1424 for wellheads, distributing door hangers or other material that
 1425 requests information about the existence of potable wells on the
 1426 property, etc.).
 1427

1428 BOARD NOTE: Owners or operators proceeding under subsection (b) of this
 1429 Section are advised that they are not entitled to payment from the Fund for costs
 1430 incurred after completion of early action activities in accordance with Subpart B.
 1431 See Subpart F of this Part.
 1432

- 1433 c) For corrective action completion reports submitted pursuant to subsection (b) of
 1434 this Section, the Agency shall issue a No Further Remediation Letter upon
 1435 approval of the report by the Agency in accordance with Subpart E.
 1436

1437 **Section 732.301 Agency Authority to Initiate**

1438
 1439 Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to
 1440 require or initiate corrective action activities in accordance with the remainder of this Subpart C.
 1441

1442 **Section 732.302 No Further Action Sites**

- 1443 a) Unless an owner or operator elects to classify a site under Section 732.312, sites
 1444 shall be classified as No Further Action if all of the following criteria are
 1445 satisfied:
 1446

- 1447
- 1448 1) The physical soil classification procedure completed in accordance with
 1449 Section 732.307 confirms either of the following:
 1450

- 1451 A) "Berg Circular"
 1452

- 1453 i) The site is located in an area designated D, E, F or G on the
 1454 Illinois State Geological Survey Circular (1984) entitled
 1455 "Potential for Contamination of Shallow Aquifers in
 1456 Illinois," incorporated by reference at Section 732.104 of
 1457 this Part; and

1458
1459 ii) The site's actual physical soil conditions are verified as
1460 consistent with those designated D, E, F or G on the Illinois
1461 State Geological Survey Circular (1984) entitled "Potential
1462 for Contamination of Shallow Aquifers in Illinois"; or
1463

1464 B) The site soil characteristics satisfy the criteria of Section
1465 732.307(d)(3) of this Part;
1466

1467 2) The UST system is not within the minimum or maximum setback zone of
1468 a potable water supply well or regulated recharge area of a potable water
1469 supply well;
1470

1471 3) After completion of early action measures in accordance with Subpart B
1472 of this Part, there is no evidence that, through natural pathways or man-
1473 made pathways, migration of petroleum or vapors threatens human health
1474 or human safety or may cause explosions in basements, crawl spaces,
1475 utility conduits, storm or sanitary sewers, vaults or other confined spaces;
1476

1477 4) There is no designated Class III special resource groundwater within 200
1478 feet of the UST system; and
1479

1480 5) After completing early action measures in accordance with Subpart B of
1481 this Part, no surface bodies of water are adversely affected by the presence
1482 of a visible sheen or free product layer as a result of a release of
1483 petroleum.
1484

1485 b) Groundwater investigation shall be required to confirm that a site meets the
1486 criteria of a No Further Action site if the Agency has received information
1487 indicating that the groundwater is contaminated at levels in excess of the most
1488 stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the
1489 applicable indicator contaminants at the property boundary line or 200 feet from
1490 the UST system, whichever is less. In such cases, a groundwater investigation that
1491 meets the requirements of Section 732.307(j) shall be performed. If the
1492 investigation confirms there is an exceedence of the most stringent Tier 1
1493 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator
1494 contaminants, the Agency may reclassify the site as High Priority.
1495

1496 **Section 732.303 Low Priority Sites**
1497

1498 Unless an owner or operator elects to classify a site under Section 732.312, sites shall be
1499 classified as Low Priority if all of the following criteria are met:
1500

- 1501 a) The physical soil classification and groundwater investigation procedures confirm
1502 the following:
1503
1504 1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill.
1505 Adm. Code 742 for the applicable indicator contaminants have not been
1506 exceeded at the property boundary line or 200 feet from the UST system,
1507 whichever is less; and
1508
1509 2) "Berg Circular"
1510
1511 A) The site is located in an area designated A1, A2, A3, A4, A5, AX,
1512 B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological
1513 Survey Circular (1984) entitled, "Potential for Contamination of
1514 Shallow Aquifers in Illinois," incorporated by reference at Section
1515 732.104 of this Part; and
1516
1517 B) The site's actual physical soil conditions are verified as consistent
1518 with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1,
1519 C2, C3, C4, or C5 on the Illinois State Geological Survey Circular
1520 (1984) entitled, "Potential for Contamination of Shallow Aquifers
1521 in Illinois"; or
1522
1523 3) The site soil characteristics do not satisfy the criteria of Section
1524 732.307(d)(3) of this Part;
1525
1526 b) The UST system is not within the minimum or maximum setback zone of a
1527 potable water supply well or regulated recharge area of a potable water supply
1528 well;
1529
1530 c) After completing early action measures in accordance with Subpart B of this Part,
1531 there is no evidence that, through natural or man-made pathways, migration of
1532 petroleum or vapors threaten human health or human safety or may cause
1533 explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers,
1534 vaults or other confined spaces;
1535
1536 d) There is no designated Class III special resource groundwater within 200 feet of
1537 the UST system; and
1538
1539 e) After completing early action measures in accordance with Subpart B of this Part,
1540 there are no surface bodies of water adversely affected by the presence of a visible
1541 sheen or free product layer as a result of the release of petroleum.
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1543 **Section 732.304 High Priority Sites**

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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.

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.

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1631 e) If, following the approval of any site classification plan, an owner or operator
1632 determines that revised procedures or cost estimates are necessary in order to
1633 comply with the minimum required activities for the site, the owner or operator
1634 shall submit, as applicable, an amended site classification plan or associated
1635 budget plan for review by the Agency. The Agency shall have the authority to
1636 review and approve, reject, or require modifications of the amended classification
1637 plan or budget plan in accordance with the procedures contained in Subpart E of
1638 this Part.
1639

1640 BOARD NOTE: Owners and operators are advised that the total payment from the Fund
1641 for all site classification plans and associated budget plans submitted by an owner or
1642 operator must not exceed the amounts set forth in Subpart H of this Part.
1643

1644 **Section 732.306 Deferred Site Classification; Priority List for Payment**
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- 1646 a) An owner or operator who has received approval for any budget plan submitted
1647 pursuant to this Part and who is eligible for payment from the Fund may elect to
1648 defer site classification activities until funds are available in an amount equal to
1649 the amount approved in the budget plan if the requirements of subsection (b) of
1650 this Section are met.
1651
1652 1) Approvals of budget plans shall be pursuant to Agency review in
1653 accordance with Subpart E of this Part.
1654
1655 2) The Agency shall monitor the availability of funds and shall provide
1656 notice of insufficient funds to owners or operators in accordance with
1657 Section 732.503(g) of this Part.
1658
1659 3) Owners and operators must submit elections to defer site classification
1660 activities on forms prescribed and provided by the Agency and, if
1661 specified by the Agency by written notice, in an electronic format. The
1662 forms must be mailed or delivered to the address designated by the
1663 Agency. The Agency's record of the date of receipt must be deemed
1664 conclusive unless a contrary date is proven by a dated, signed receipt from
1665 certified or registered mail.
1666
1667 4) The Agency must review elections to defer site classification activities to
1668 determine whether the requirements of subsection (b) of this Section are
1669 met. The Agency must notify the owner or operator in writing of its final
1670 action on any such election. If the Agency fails to notify the owner or
1671 operator of its final action within 120 days after its receipt of the election,
1672 the owner or operator may deem the election rejected by operation of law.

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- 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;

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- 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.

1744 **Section 732.307 Site Evaluation**

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- 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

1759 or Licensed Professional Geologist.
 1760

1761 b) As a part of each site evaluation, the Licensed Professional Engineer or Licensed
 1762 Professional Geologist shall conduct a physical soil classification in accordance
 1763 with the procedures at subsection (c) or (d) of this Section. Except as provided in
 1764 subsection (e) of this Section, all elements of the chosen method of physical soil
 1765 classification must be completed for each site. In addition to the requirement for
 1766 a physical soil classification, the Licensed Professional Engineer or Licensed
 1767 Professional Geologist shall, at a minimum, complete the requirements at
 1768 subsections (f) through (j) of this Section before classifying a site as High Priority
 1769 or Low Priority and subsection (f) through (i) of this Section before classifying a
 1770 site as No Further Action.
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1772 c) Method One for Physical Soil Classification:
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1774 1) Soil Borings
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1776 A) Prior to conducting field activities, a review of scientific
 1777 publications and regional geologic maps shall be conducted to
 1778 determine if the subsurface strata are as generally mapped in the
 1779 Illinois State Geological Survey Circular (1984) entitled "Potential
 1780 for Contamination of Shallow Aquifers in Illinois," incorporated
 1781 by reference in Section 732.104 of this Part. A list of the
 1782 publications reviewed and any preliminary conclusions concerning
 1783 the site geology shall be included in the site classification
 1784 completion report.
 1785

1786 B) A minimum of one soil boring to a depth that includes 50 feet of
 1787 native soil or to bedrock shall be performed for each tank field
 1788 with a release of petroleum.
 1789

1790 C) If, during boring, bedrock is encountered or if auger refusal occurs
 1791 because of the density of a geologic material, a sample of the
 1792 bedrock or other material shall be collected to determine
 1793 permeability or an in situ test shall be performed to determine
 1794 hydraulic conductivity in accordance with subsections (c)(3)(A)
 1795 and (c)(3)(B) of this Section. If bedrock is encountered or auger
 1796 refusal occurs, the Licensed Professional Engineer or Licensed
 1797 Professional Geologist shall verify that the conditions that
 1798 prevented the full boring are expected to be continuous through the
 1799 remaining required depth.
 1800

1801 D) Borings shall be performed within 200 feet of the outer edge of the

1802 tank field or at the property boundary, whichever is less. If more
1803 than one boring is required per site, borings shall be spaced to
1804 provide reasonable representation of site characteristics. The
1805 actual spacing of the borings shall be based on the regional
1806 hydrogeologic information collected in accordance with subsection
1807 (c)(1)(A) of this Section. Location shall be chosen to limit to the
1808 greatest extent possible the vertical migration of contamination.
1809

- 1810 E) Soil borings shall be continuously sampled to ensure that no gaps
1811 appear in the sample column.
- 1812
- 1813 F) If anomalies are encountered, additional soil borings may be
1814 necessary to verify the consistency of the site geology.
- 1815
- 1816 G) Any water bearing units encountered shall be protected as
1817 necessary to prevent cross-contamination during drilling.
- 1818
- 1819 H) The owner or operator may utilize techniques other than those
1820 specified in this subsection (c)(1) for soil classification provided
1821 that:
 - 1822
 - 1823 i) The techniques provide equivalent, or superior, information
1824 as required by this Section;
 - 1825
 - 1826 ii) The techniques have been successfully utilized in
1827 applications similar to the proposed application;
 - 1828
 - 1829 iii) Methods for quality control can be implemented; and
1830
 - 1831 iv) The owner or operator has received written approval from
1832 the Agency prior to the start of the investigation.
1833

- 1834 2) Soil Properties
1835 The following tests shall be performed on a representative sample of each
1836 of the stratigraphic units encountered in the native soil boring that has
1837 been determined most conducive to transporting contaminants from the
1838 source based on site factors, including but not limited to visual and tactile
1839 observations, the classification of the soil, any prior evaluation of the site
1840 stratigraphy, the volume of the release, the thickness or extent of the
1841 stratigraphic unit, and the requirements of ASTM D 2488-93, Standard
1842 Practice for Description and Identification of Soils (Visual-Manual
1843 Procedure), approved September 15, 1993:
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- 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 (75µm) 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 in-situ 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

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- 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 D1587-83, 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);

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- 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.
- 2027 e) If, during the completion of the requirements of subsection (c) or (d) of this
2028 Section, a Licensed Professional Engineer or Licensed Professional Geologist
2029 determines that the site geology is not consistent with area D, E, F or G of the
2030 Illinois State Geological Survey Circular (1984) entitled, "Potential for
2031 Contamination of Shallow Aquifers in Illinois," incorporated by reference in
2032 Section 732.104 of this Part or that the criteria of subsection (d)(3) are not
2033 satisfied, any remaining steps required by subsection (c) or (d) may be suspended,
2034 provided that the soil investigation has been sufficient to satisfy the requirements
2035 of subsection (g) of this Section. If activities are suspended under this subsection
2036 (e), the Licensed Professional Engineer or Licensed Professional Geologist shall
2037 complete the requirements of subsections (f) through (j) of this Section in order to
2038 determine whether the site is High Priority or Low Priority. The site conditions
2039 upon which the suspension of the requirements of subsection (c) or (d) of this
2040 Section is based shall be documented in the site classification completion report.
2041
- 2042 f) Survey of Water Supply Wells. At a minimum, the owner or operator must
2043 conduct a water supply well survey to identify all potable water supply wells
2044 located at the site and within 200 feet of the site, all community water supply
2045 wells located at the site and within 2,500 feet of the site, and all regulated
2046 recharge areas and wellhead protection areas in which the site is located. Actions
2047 taken to identify the wells must include, but is not limited to, the following.
2048
- 1) Contacting the Agency's Division of Public Water Supplies to identify
2049 community water supply wells, regulated recharge areas, and wellhead
2050 protection areas;
 - 2) Using current information from the Illinois State Geological Survey, the
2051 Illinois State Water Survey, and the Illinois Department of Public Health
2052 (or the county or local health department delegated by the Illinois
2053 Department of Public Health to permit potable water supply wells) to
2054 identify potable water supply wells other than community water supply
2055 wells; and
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- 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

- 2103 pathways has occurred, using laboratory analytical data for applicable
2104 indicator contaminants obtained as follows:
- 2105
 - 2106 A) From prior sampling, provided that such laboratory analytical data
2107 demonstrates that no contaminant of concern has migrated to or
2108 along any man-made pathways;
 - 2109
 - 2110 B) From soil samples, and groundwater samples if groundwater is
2111 encountered, taken between man-made pathways and contaminated
2112 soil, provided that such laboratory analytical data demonstrates
2113 that no contaminant of concern has migrated to or along any man-
2114 made pathways; or
 - 2115
 - 2116 C) From soil samples, and groundwater samples if groundwater is
2117 encountered, taken along man-made pathways.
 - 2118
 - 2119 4) The Licensed Professional Engineer or Licensed Professional Geologist
2120 shall provide a map of the site and any surrounding areas that may be
2121 adversely affected by the release of petroleum from the UST system. At a
2122 minimum, the map shall be to scale, oriented with north at the top, and
2123 shall show the location of the leaking UST system(s) with any associated
2124 piping and all potential natural and man-made pathways that are on the
2125 site, that are in rights-of-way attached to the site, or that are in areas that
2126 may be adversely affected as a result of the release of petroleum.
 - 2127
 - 2128 5) Unless the Agency's review reveals objective evidence to the contrary, the
2129 Licensed Professional Engineer or Licensed Professional Geologist shall
2130 be presumed correct when certifying whether or not there is evidence that,
2131 through natural or man-made pathways, migration of petroleum or vapors:
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 - 2133 A) May potentially threaten human health or human safety; or
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 - 2135 B) May cause explosions in basements, crawl spaces, utility conduits,
2136 storm or sanitary sewers, vaults or other confined spaces.
 - 2137
 - 2138 h) The Licensed Professional Engineer or Licensed Professional Geologist shall
2139 verify whether Class III groundwater exists within 200 feet of the UST system.
 - 2140
 - 2141 i) The Licensed Professional Engineer or Licensed Professional Geologist shall
2142 locate all surface bodies of water on site and within 100 feet of the site and
2143 provide a map noting the locations. All such surface bodies of water shall be
2144 inspected to determine whether they have been adversely affected by the presence
2145 of a sheen or free product layer resulting from the release of petroleum from the

- 2146 UST system.
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 2148 j) Groundwater Investigation
 2149
 2150 1) For sites failing to meet NFA site classification or for sites where a
 2151 groundwater investigation is necessary pursuant to Section 732.302(b) of
 2152 this Part, the Licensed Professional Engineer or Licensed Professional
 2153 Geologist shall perform a groundwater investigation as required under this
 2154 Part in accordance with this subsection (j) to determine whether the most
 2155 stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code
 2156 742 for the applicable indicator contaminants have been exceeded at the
 2157 property boundary or 200 feet from the UST system, whichever is less, as
 2158 a result of the UST release of petroleum.
 2159
 2160 2) Applicable indicator contaminants shall be those identified pursuant to
 2161 Section 732.310 of this Part.
 2162
 2163 3) Except as provided in subsection (j)(6) of this Section, a minimum of four
 2164 groundwater monitoring wells shall be installed at the property boundary
 2165 or 200 feet from the UST system, whichever is less. In the event that a
 2166 groundwater monitoring well cannot be physically installed at the property
 2167 line or 200 feet from the UST system, whichever is closer, in accordance
 2168 with this subsection (j), the owner or operator shall request approval from
 2169 the Agency to place the well further out, but at the closest practical point
 2170 to the compliance point. The owner or operator may elect to place a
 2171 monitoring well in a location that is closer to the UST system than this
 2172 Part requires. However, once the election is made, the owner or operator
 2173 may not withdraw the election at a later time. The Agency may require
 2174 the installation of additional monitoring wells to ensure that at least one
 2175 monitoring well is located hydraulically upgradient and three monitoring
 2176 wells are located hydraulically downgradient of the UST system. The
 2177 wells must be installed so that they provide the greatest likelihood of
 2178 detecting migration of groundwater contamination. At a minimum,
 2179 monitoring well construction shall satisfy the following requirements:
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 2181 A) Construction shall be in a manner that will enable the collection of
 2182 representative groundwater samples;
 2183
 2184 B) All monitoring wells shall be cased in a manner that maintains the
 2185 integrity of the borehole. Casing material shall be inert so as not to
 2186 affect the water sample. Casing requiring solvent-cement type
 2187 couplings shall not be used;
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- 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

- 2232 Publication No. SW-846, incorporated by reference at Section
2233 732.104 of this Part, or other procedures approved by the Agency.
2234
- 2235 B) Groundwater elevation in a groundwater monitoring well shall be
2236 determined and recorded to establish the gradient of the
2237 groundwater table.
2238
- 2239 C) The analytical methodology used for the analysis of the indicator
2240 contaminants shall be consistent with both of the following:
2241
- 2242 i) The methodology must have a practical quantitation limit
2243 (PQL) at or below the most stringent objectives or
2244 detection levels set forth in 35 Ill. Adm. Code 742 or as set
2245 for mixtures or degradation products as provided in Section
2246 732.310 of this Part; and
2247
- 2248 ii) The methodology must be consistent with the
2249 methodologies contained in "Test Methods for Evaluating
2250 Solid Wastes, Physical/Chemical Methods," EPA
2251 Publication No. SW-846, as incorporated by reference at
2252 Section 732.104, or other Agency approved methods.
2253
- 2254 D) In addition to analytical results, sampling and analytical reports
2255 shall contain the following information:
2256
- 2257 i) Sample collection information including but not limited to
2258 the name of sample collector, time and date of sample
2259 collection, method of collection, and monitoring location;
2260
- 2261 ii) Sample preservation and shipment information including
2262 but not limited to field quality control;
2263
- 2264 iii) Analytical procedures including but not limited to the
2265 method detection limits and the practical quantitation limits
2266 (PQL);
2267
- 2268 iv) Chain of custody and control; and
2269
- 2270 v) Field and lab blanks.
2271
- 2272 6) As an alternative to the installation of monitoring wells under subsection
2273 (j)(3) of this Section, the Licensed Professional Engineer or Licensed
2274 Professional Geologist may demonstrate to the Agency through a site-

- 2275 specific evaluation that the groundwater monitoring should not be
2276 required.
2277
- 2278 A) The evaluation shall be based on a demonstration of the following
2279 factors:
2280
- 2281 i) Whether groundwater is present within the depth of the
2282 boring used to perform physical soil classification under the
2283 selected method (Method One under subsection (c) of this
2284 Section or Method Two under subsection (d) of this
2285 Section);
2286
 - 2287 ii) Whether groundwater is withdrawn for potable use within
2288 1000 feet of the UST system and at what depths; and
2289
 - 2290 iii) Whether seasonal fluctuation in groundwater could result in
2291 groundwater contacting contaminated soil (e.g., historical
2292 records).
2293
- 2294 B) The presence or absence of a water bearing unit under subsection
2295 (j)(6)(A)(i) of this Section shall be determined on the basis of at
2296 least one soil boring to the depth necessary to perform physical soil
2297 classification under the selected method (Method One under
2298 subsection (c) of this Section or Method Two under subsection (d)
2299 of this Section), unless auger refusal occurs because of the density
2300 of a geologic material or because bedrock is encountered. If auger
2301 refusal occurs, then the Licensed Professional Engineer or
2302 Licensed Professional Geologist must demonstrate the depth to a
2303 water bearing unit from the available site specific or regional
2304 information.
2305
- 2306 C) If the evaluation fails to demonstrate to the Agency that a
2307 groundwater investigation should not be required as part of site
2308 classification activities, then the Licensed Professional Engineer or
2309 Licensed Professional Geologist shall perform a groundwater
2310 investigation in accordance with the remainder of this subsection
2311 (j).
2312
- 2313 D) If the evaluation demonstrates to the Agency that a groundwater
2314 investigation should not be required, then the site shall be
2315 classified as Low Priority, unless other High Priority criteria are
2316 present. Upon Agency approval of the evaluation to demonstrate
2317 that a groundwater investigation should not be required, then the

2318 site shall be classified as Low Priority and a No Further
2319 Remediation Letter shall be issued to the owner or operator of the
2320 site, unless other High Priority criteria are present.
2321

2322 **Section 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring**
2323 **Wells**
2324

- 2325 a) Soil boring logs shall be kept for all soil borings. The logs shall be submitted
2326 along with the site classification completion report and shall be on forms
2327 prescribed and provided by the Agency and, if specified by the Agency by written
2328 notice, in an electronic format.
2329
- 2330 1) Soil boring logs shall contain the following information at a minimum:
2331
- 2332 A) Sampling device, sample number and amount of recovery;
 - 2333
 - 2334 B) Total depth of boring to the nearest 6 inches;
 - 2335
 - 2336 C) Detailed field observations describing materials encountered in
2337 boring, including soil constituents, consistency, color, density,
2338 moisture, odors, and the nature and extent of sand or gravel lenses
2339 or seams equal to or greater than 1 inch in thickness;
 - 2340
 - 2341 D) Petroleum hydrocarbon vapor readings (as determined by
2342 continuous screening of borings with field instruments capable of
2343 detecting such vapors);
 - 2344
 - 2345 E) Locations of sample(s) used for physical or chemical analysis; and
 - 2346
 - 2347 F) Groundwater levels while boring and at completion.
2348
- 2349 2) Boring logs for soil boring(s) completed for physical soil classification
2350 also shall include the following information, as applicable for the
2351 classification method chosen, for each stratigraphic unit encountered at the
2352 site:
2353
- 2354 A) Moisture content;
 - 2355
 - 2356 B) Unconfined compression strength in tons per square foot (TSF)
2357 using a hand penetrometer;
 - 2358
 - 2359 C) Unified Soil Classification System (USCS) soil classification
2360 group symbol in accordance with ASTM Standard D 2487-93,

2361 "Standard Test Method for Classification of Soils for Engineering
2362 Purposes," incorporated by reference in Section 732.104 of this
2363 Part, or other Agency approved method; and
2364

2365 D) The reasoning behind the Licensed Professional Engineer's or
2366 Licensed Professional Geologist's decision to perform or not
2367 perform soil testing pursuant to Section 732.307(c)(2) and (d)(2) of
2368 this Part as to each identified stratigraphic unit.
2369

2370 b) Boreholes and monitoring wells shall be abandoned pursuant to regulations
2371 promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code
2372 920.120.
2373

2374 **Section 732.309 Site Classification Completion Report**
2375

2376 a) Within 30 days after the completion of a site evaluation in accordance with
2377 Section 732.307 of this Part, the owner or operator shall submit to the Agency a
2378 site classification completion report addressing all applicable elements of the
2379 site evaluation. The report shall contain all maps, diagrams, and any other
2380 information required by Section 732.307 of this Part, the results or conclusions
2381 of all surveys and investigations and any documentation necessary to
2382 demonstrate those results or conclusions, and the certification of a Licensed
2383 Professional Engineer or Licensed Professional Geologist of the site's
2384 classification as No Further Action, Low Priority or High Priority in
2385 accordance with this Subpart C. Documentation of the water supply well survey
2386 conducted pursuant to Section 732.307(f) of this Part must include, but is not
2387 limited to, the following:
2388

2389 1) One or more maps, to an appropriate scale, showing the following:
2390

2391 A) The location of the community water supply wells and other
2392 potable water supply wells identified pursuant to Section
2393 732.307(f) of this Part, and the setback zone for each well;
2394

2395 B) The location and extent of regulated recharge areas and wellhead
2396 protection areas identified pursuant to Section 732.307(f) of this
2397 Part;
2398

2399 C) The current extent of groundwater contamination exceeding the
2400 Tier 1 groundwater ingestion exposure route remediation
2401 objectives of 35 Ill. Adm. Code 742 for the applicable indicator
2402 contaminants; and
2403

- 2404 D) The modeled extent of groundwater contamination exceeding the
 2405 Tier 1 groundwater ingestion exposure route remediation
 2406 objectives of 35 Ill. Adm. Code 742 for the applicable indicator
 2407 contaminants. The information required under this subsection (D)
 2408 is not required to be shown in the site classification completion
 2409 report if modeling is not performed as part of site investigation;
 2410
- 2411 2) One or more tables listing the setback zones for each community water
 2412 supply well and other potable water supply wells identified pursuant to
 2413 Section 732.307(f) of this Part;
 2414
- 2415 3) A narrative that, at a minimum, identifies each entity contacted to identify
 2416 potable water supply wells pursuant to Section 732.307(f) of this Part, the
 2417 name and title of each person contacted at each entity, and field
 2418 observations associated with the identification of potable water supply
 2419 wells; and
 2420
- 2421 4) A certification from a Licensed Professional Engineer or Licensed
 2422 Professional Geologist that the water supply well survey was conducted in
 2423 accordance with the requirements of Section 732.307(f) of this Part and
 2424 that the documentation submitted pursuant to this Section includes the
 2425 information obtained as a result of the survey.
 2426
- 2427 b) The Agency shall have the authority to review and approve, reject or require
 2428 modification of any report submitted pursuant to this Section in accordance with
 2429 the procedures contained in Subpart E of this Part.
 2430

2431 **Section 732.310 Indicator Contaminants**

- 2432
- 2433 a) For purposes of this Part, the term "indicator contaminants" shall mean the
 2434 parameters identified in subsections (b) through (i) of this Section.
 2435
- 2436 b) For gasoline, including but not limited to leaded, unleaded, premium and gasohol,
 2437 the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes
 2438 and methyl tertiary butyl ether (MTBE), except as provided in subsection (h) of
 2439 this Section. For leaded gasoline, lead shall also be an indicator contaminant.
 2440
- 2441 c) For aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel
 2442 oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils,
 2443 cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions
 2444 and heavy oils, the indicator contaminants shall be benzene, ethylbenzene,
 2445 toluene, total xylenes and the polynuclear aromatics listed in Appendix B of this
 2446 Part. For leaded aviation turbine fuels, lead shall also be an indicator

- 2447 contaminant.
 2448
 2449 d) For transformer oils the indicator contaminants shall be benzene, ethylbenzene,
 2450 toluene, total xylenes, and the polynuclear aromatics and the polychlorinated
 2451 biphenyl parameters listed in Appendix B of this Part.
 2452
 2453 e) For hydraulic fluids the indicator contaminants shall be benzene, ethylbenzene,
 2454 toluene, total xylenes, the polynuclear aromatics listed in Appendix B of this Part
 2455 and barium.
 2456
 2457 f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic
 2458 naphthas, moderately volatile hydrocarbon solvents and petroleum extender oils,
 2459 the indicator contaminants shall be the volatile, base/neutral and polynuclear
 2460 aromatic parameters listed in Appendix B of this Part. The Agency may add
 2461 degradation products or mixtures of any of the above pollutants in accordance
 2462 with 35 Ill. Adm. Code 620.615.
 2463
 2464 g) For used oil the indicator contaminants shall be determined by the results of a
 2465 used oil soil sample analysis. In accordance with Section 732.202(h) of this Part,
 2466 soil samples must be collected from the walls and floor of the used oil UST
 2467 excavation if the UST is removed, or from borings drilled along each side of the
 2468 used oil UST if the UST remains in place. The sample that appears to be the most
 2469 contaminated as a result of a release from the used oil UST must then be analyzed
 2470 for the following parameters. If none of the samples appear to be contaminated a
 2471 soil sample must be collected from the floor of the used oil UST excavation below
 2472 the former location of the UST if the UST is removed, or from soil located at the
 2473 same elevation as the bottom of the used oil UST if the UST remains in place, and
 2474 analyzed for the following parameters:
 2475
 2476 1) All volatile, base/neutral, polynuclear aromatic, and metal parameters
 2477 listed at Appendix B of this Part and any other parameters the Licensed
 2478 Professional Engineer or Licensed Professional Geologist suspects may be
 2479 present based on UST usage. The Agency may add degradation products
 2480 or mixtures of any of the above pollutants in accordance with 35 Ill. Adm.
 2481 Code 620.615.
 2482
 2483 2) The used oil indicator contaminants shall be those volatile, base/neutral,
 2484 and metal parameters listed at Appendix B of this Part or as otherwise
 2485 identified at subsection (g)(1) of this Section that exceed their remediation
 2486 objective at 35 Ill. Adm. Code 742 in addition to benzene, ethylbenzene,
 2487 toluene, total xylenes, and polynuclear aromatics listed in Appendix B of
 2488 this Part.
 2489

- 2490 3) If none of the parameters exceed their remediation objective, the used oil
2491 indicator contaminants shall be benzene, ethylbenzene, toluene, total
2492 xylenes, and the polynuclear aromatics listed in Appendix B of this Part.
2493
- 2494 h) Unless an owner or operator elects otherwise pursuant to subsection (i) of this
2495 Section, the term "indicator contaminants" shall not include MTBE for any
2496 release reported to the Illinois Emergency Management Agency prior to June 1,
2497 2002 (the effective date of amendments establishing MTBE as an indicator
2498 contaminant).
2499
- 2500 i) An owner or operator exempt from having to address MTBE as an indicator
2501 contaminant pursuant to subsection (h) of this Section may elect to include MTBE
2502 as an indicator contaminant under the circumstances listed in subsections (1) or
2503 (2) of this subsection (i). Elections to include MTBE as an indicator contaminant
2504 must be made by submitting to the Agency a written notification of such election
2505 signed by the owner or operator. The election must be effective upon the
2506 Agency's receipt of the notification and cannot be withdrawn once made. Owners
2507 or operators electing to include MTBE as an indicator contaminant must
2508 remediate MTBE contamination in accordance with the requirements of this Part.
2509
- 2510 1) If the Agency has not issued a No Further Remediation Letter for the
2511 release; or
2512
- 2513 2) If the Agency has issued a No Further Remediation Letter for the release
2514 and the release has caused off-site groundwater contamination exceeding
2515 the remediation objective for MTBE set forth in 35 Ill. Adm. Code 742.
2516

2517 **Section 732.311 Groundwater Remediation Objectives**
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2519 For purposes of this Part, remediation objectives for groundwater shall be the groundwater
2520 remediation objectives specified in 35 Ill. Adm. Code 742 for the applicable indicator
2521 contaminants. For mixtures and degradation products that have been included as indicator
2522 contaminants in accordance with Section 732.310 of this Part, the Agency shall determine
2523 groundwater remediation objectives on a site-by-site basis.
2524

2525 **Section 732.312 Classification by Exposure Pathway Exclusion**
2526

- 2527 a) An owner or operator electing to classify a site by exclusion of human exposure
2528 pathways under 35 Ill. Adm. Code 742, Subpart C, shall meet the requirements of
2529 this Section, except as provided in subsections (a)(1) and (j) of this Section.
2530
- 2531 1) Such election shall be made in writing by the owner or operator as part of
2532 the submission of the site classification plan under subsection (b) of this

- 2533 Section. The election may be made at any time until the Agency issues a
2534 No Further Remediation Letter, provided, however, that the election must
2535 be received by the Agency prior to March 1, 2006. On or after March 1,
2536 2006, owners and operators desiring to proceed with the exclusion of
2537 human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must
2538 elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with
2539 35 Ill. Adm. Code 734 and conduct site investigation and corrective action
2540 in accordance with that Part instead of meeting the requirements of this
2541 Section.
- 2542
- 2543 2) An owner or operator who chooses to revoke an election submitted under
2544 subsection (b) of this Section shall do so in writing.
- 2545
- 2546 b) The owner or operator, prior to conducting any site evaluation activities, shall
2547 submit to the Agency a site classification plan including, but not limited to, a
2548 contaminant identification and groundwater investigation plan (if one or more of
2549 the criteria set forth in Section 732.202(h)(4)(A) through (C) of this Part are met),
2550 satisfying the minimum requirements for site evaluation activities as set forth in
2551 this Section. The plans shall be designed to:
- 2552
- 2553 1) Determine the full extent of soil or groundwater contamination exceeding
2554 the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742
2555 for the applicable indicator contaminants. Such activities may include soil
2556 borings with sampling and analysis, groundwater monitoring wells with
2557 sampling and analysis, groundwater modeling, or a combination of these
2558 activities.
- 2559
- 2560 2) Collect data sufficient to determine which, if any, of the applicable
2561 exposure routes under 35 Ill. Adm. Code 742 can be excluded pursuant to
2562 35 Ill. Adm. Code 742, Subpart C. The data shall include, but is not
2563 limited to, site-specific data demonstrating the physical characteristics of
2564 soil and groundwater.
- 2565
- 2566 c) A Licensed Professional Engineer or Licensed Professional Geologist (or, where
2567 appropriate, persons working under the direction of a Licensed Professional
2568 Engineer or Licensed Professional Geologist) shall conduct the site evaluation.
2569 The results of the site evaluation shall provide the basis for determining the site
2570 classification. The site classification shall be certified by the supervising
2571 Licensed Professional Engineer or Licensed Professional Geologist.
- 2572
- 2573 d) As a part of each site evaluation, the Licensed Professional Engineer or Licensed
2574 Professional Geologist shall conduct physical soil classification and contaminant
2575 identification in accordance with the procedures at subsection (b) of this Section.

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- 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.
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- 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.
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- 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.
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- 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.
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- 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.
- 2617
 2618
- 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

2619 with this Section prior to the submittal or approval of any otherwise required site
 2620 classification plan or budget plan. However, any such classification plan and
 2621 budget plan shall be submitted to the Agency for review and approval, rejection,
 2622 or modification in accordance with the procedures contained in Subpart E of this
 2623 Part prior to payment for any related costs or the issuance of a No Further
 2624 Remediation Letter. On or after March 1, 2006, owners and operators desiring to
 2625 proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code
 2626 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in
 2627 accordance with 35 Ill. Adm. Code 734 and conduct site investigation and
 2628 corrective action in accordance with that Part instead of meeting the requirements
 2629 of this Section.

- 2630
- 2631 k) If, following the approval of any site classification plan, an owner or operator
 2632 determines that revised procedures or cost estimates are necessary in order to
 2633 comply with the minimum required activities for the site, the owner or operator
 2634 shall submit, as applicable, an amended site classification plan or associated
 2635 budget plan for review by the Agency. The Agency shall have the authority to
 2636 review and approve, reject, or require modification of the amended plan or budget
 2637 plan in accordance with the procedures contained in Subpart E of this Part.
 2638

2639 BOARD NOTE: Owners or operators proceeding under subsection (a)(2) or (j) of this
 2640 Section are advised that they may not be entitled to full payment from the Fund and that
 2641 applications for payment must be submitted no later than one year after the date the
 2642 Agency issues a No Further Remediation Letter. Furthermore, owners or operators may
 2643 only be reimbursed for one method of site classification. See Subpart F of this Part.
 2644

2645 Owners and operators are also advised that the total payment from the Fund for all
 2646 corrective action plans and associated budget plans submitted by an owner or operator
 2647 must not exceed the amounts set forth in Subpart H of this Part.
 2648

2649 **SUBPART D: CORRECTIVE ACTION**

2650

2651 **Section 732.400 General**

- 2652
- 2653 a) Following approval of the site evaluation and classification by the Agency
 2654 pursuant to Subpart C of this Part and except as provided in subsection (b) or (c)
 2655 of this Section, the owner or operator of a UST system subject to the requirements
 2656 of this Part shall develop and submit a corrective action plan and perform
 2657 corrective action activities in accordance with the procedures and requirements
 2658 contained in this Subpart D.
 2659
- 2660 b) Owners or operators of sites classified in accordance with the requirements of
 2661 Subpart C as No Further Action may choose to conduct remediation sufficient to

2662 satisfy the remediation objectives referenced in Section 732.408 of this Part.
2663

- 2664 c) Owners or operators of sites classified in accordance with the requirements of
2665 Subpart C as Low Priority may choose to conduct remediation sufficient to satisfy
2666 the remediation objectives referenced in Section 732.408 of this Part. Any owner
2667 or operator choosing to conduct remediation sufficient to satisfy the remediation
2668 objectives in Section 732.408 of this Part shall so notify the Agency in writing
2669 prior to conducting such efforts. Upon completion of the remediation activities,
2670 owners or operators choosing to conduct remediation sufficient to satisfy the
2671 remediation objectives in Section 732.408 of this Part shall submit a corrective
2672 action completion report to the Agency demonstrating compliance with the
2673 required levels. Upon approval of the corrective action completion report by the
2674 Agency in accordance with Subpart E, a No Further Remediation Letter shall be
2675 issued by the Agency.
2676

2677 BOARD NOTE: Owners or operators proceeding under subsection (b) or (c) of this
2678 Section are advised that they may not be entitled to full payment from the Fund. See
2679 Subpart F of this Part.
2680

2681 **Section 732.401 Agency Authority to Initiate**
2682

2683 Pursuant to Sections 732.100 or 732.105 of this Part, the Agency shall have the authority to
2684 require or initiate corrective action activities in accordance with the remainder of this Subpart D.
2685

2686 **Section 732.402 No Further Action Site**
2687

2688 The owner or operator of a site that has been certified as a No Further Action site by a Licensed
2689 Professional Engineer or Licensed Professional Geologist and approved as such by the Agency
2690 shall have no additional remediation responsibilities beyond those performed pursuant to Subpart
2691 B or C of this Part. If the Agency fails to approve, reject or modify the site classification
2692 completion report within 120 days after receipt of the completion report pursuant to Section
2693 732.309 or Section 732.312, the site classification completion report is rejected by operation of
2694 law.
2695

2696 **Section 732.403 Low Priority Site**
2697

- 2698 a) The owner or operator of a site that has been certified as a Low Priority site by a
2699 Licensed Professional Engineer or Licensed Professional Geologist and approved
2700 as such by the Agency shall develop a groundwater monitoring plan and perform
2701 groundwater monitoring in accordance with the requirements of this Section.
2702
2703 b) The owner or operator shall develop a groundwater monitoring plan designed to
2704 satisfy the following requirements at a minimum:

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- 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

- 2748 Section 732.405 of this Part. If the owner or operator intends to seek payment
 2749 from the Fund, a groundwater monitoring budget plan also shall be submitted to
 2750 the Agency for review.
 2751
- 2752 d) Groundwater analysis results obtained pursuant to subsection (b) of this Section
 2753 shall be submitted to the Agency within 30 days after the end of each annual
 2754 sampling period, except as provided under subsection (b)(6) of this Section.
 2755 Groundwater analysis data being used pursuant to subsection (b)(6) shall be
 2756 submitted to the Agency as part of a Low Priority groundwater monitoring plan or
 2757 the Low Priority groundwater monitoring completion report.
 2758
- 2759 1) The information to be collected shall include, but not be limited to, the
 2760 information set forth in Section 732.307(j)(5) of this Part.
 2761
- 2762 2) If at any time the groundwater analysis results indicate a confirmed
 2763 exceedence of the applicable indicator contaminant groundwater
 2764 remediation objectives as a result of the underground storage tank release
 2765 of petroleum, the owner or operator shall notify the Agency of the
 2766 exceedence within 30 days and provide supporting documentation of the
 2767 nature and extent of the exceedence.
 2768
- 2769 3) Indicator contaminant groundwater remediation objectives shall be
 2770 determined in accordance with Section 732.311 of this Part.
 2771
- 2772 e) Within 30 days after the completion of the Low Priority groundwater monitoring
 2773 plan, the owner or operator shall submit to the Agency a groundwater monitoring
 2774 completion report in accordance with Section 732.409 of this Part. If there is no
 2775 confirmed exceedence of applicable indicator contaminant objectives during the
 2776 three year groundwater monitoring period, the report shall contain a certification
 2777 to that effect by a Licensed Professional Engineer or Licensed Professional
 2778 Geologist.
 2779
- 2780 f) The Agency shall review the groundwater monitoring completion report in
 2781 accordance with the procedures set forth in Subpart E of this Part and shall issue a
 2782 No Further Remediation Letter to the owner or operator in accordance with
 2783 Subpart G of this Part upon approval of the report by the Agency. If the owner or
 2784 operator elects to appeal an Agency action to disapprove, modify, or reject by
 2785 operation of law a Low Priority groundwater monitoring completion report, the
 2786 Agency shall indicate to the Board in conjunction with such appeal whether it
 2787 intends to reclassify the site as High Priority.
 2788
- 2789 g) If at any time groundwater analysis results indicate a confirmed exceedence of
 2790 applicable indicator contaminant objectives, the Agency may reclassify the site as

2791 a High Priority site any time before the Agency's final approval of a Low Priority
 2792 groundwater monitoring completion report. The Agency shall notify the owner or
 2793 operator in writing if a site is reclassified. Notice of reclassification shall be by
 2794 registered or certified mail, post marked with a date stamp and with return receipt
 2795 requested. Final action shall be deemed to have taken place on the post marked
 2796 date that such notice is mailed. Any action by the Agency to reclassify the site as
 2797 a High Priority site shall be subject to appeal to the Board within 35 days after the
 2798 Agency's final action in the manner provided for in the review of permit decisions
 2799 in Section 40 of the Act.

2800
 2801 h) The owner or operator of a Low Priority site reclassified to High Priority pursuant
 2802 to subsection (g) of this Section shall develop and submit for Agency approval a
 2803 High Priority corrective action plan satisfying the requirements of Section
 2804 732.404 of this Part within 120 days after receiving the notice of reclassification.
 2805 If the owner or operator intends to seek payment from the Fund, a corrective
 2806 action budget plan also shall be submitted within 120 days after receiving the
 2807 notice of reclassification.
 2808

2809 i) As a result of the demonstration under Section 732.307(j)(6), the owner or
 2810 operator of a site classified as Low Priority by a Licensed Professional Engineer
 2811 or Licensed Professional Geologist shall prepare a report in accordance with
 2812 Section 732.409 of this Part, that supports the issuance of a No Further
 2813 Remediation Letter or reclassification of the site as a High Priority site. In the
 2814 event the site is reclassified as a High Priority site, the owner or operator shall
 2815 develop and submit for Agency approval a High Priority corrective action plan in
 2816 accordance with subsection (h) of this Section.
 2817

2818 **Section 732.404 High Priority Site**
 2819

2820 a) The owner or operator of a site classified as High Priority shall develop a
 2821 corrective action plan and perform corrective action in accordance with the
 2822 requirements of this Section. The purpose of the corrective action plan shall be to
 2823 remediate or eliminate each of the criteria set forth in subsection (b) of this
 2824 Section that caused the site to be classified as High Priority.
 2825

2826 b) The owner or operator shall develop a corrective action plan based on site
 2827 conditions and designed to achieve the following as applicable to the site:
 2828

2829 1) For sites that have submitted a site classification report under Section
 2830 732.309, provide that:

2831 A) After complete performance of the corrective action plan,
 2832 applicable indicator contaminants identified in the groundwater
 2833

2834 investigation are not present in groundwater, as a result of the
2835 underground storage tank release, in concentrations exceeding the
2836 remediation objectives referenced in Section 732.408 of this Part at
2837 the property boundary line or 200 feet from the UST system,
2838 whichever is less;

2839
2840 B) After complete performance of the corrective action plan, Class III
2841 special resource groundwater quality standards for Class III special
2842 resource groundwater within 200 feet of the UST system are not
2843 exceeded as a result of the underground storage tank release for
2844 any indicator contaminant identified in the groundwater
2845 investigation;

2846
2847 C) After complete performance of the corrective action plan,
2848 remediation of contamination in natural or man-made exposure
2849 pathways as a result of the underground storage tank release has
2850 been conducted in accordance with 35 Ill. Adm. Code 742;

2851
2852 D) Threats to potable water supplies are remediated; and

2853
2854 E) Threats to bodies of surface water are remediated.
2855

2856 2) For sites that have submitted a site classification completion report under
2857 Section 732.312 of this Part, provide that, after complete performance of
2858 the corrective action plan, the concentrations of applicable indicator
2859 contaminants meet the remediation objectives developed under Section
2860 732.408 for any applicable exposure route not excluded from
2861 consideration under Section 732.312.
2862

2863 c) The owner or operator is not required to perform corrective action on an adjoining
2864 or off-site property to meet the requirements of this Section, even where complete
2865 performance of the corrective action plan under subsection (b)(1) or (b)(2) of this
2866 Section would otherwise require such off-site action, if the Agency determines
2867 that the owner or operator is unable to obtain access to the property despite the
2868 use of best efforts in accordance with the requirements of Section 732.411 of this
2869 Part.
2870

2871 d) In developing the corrective action plan, if the Licensed Professional Engineer or
2872 Licensed Professional Geologist selects soil or groundwater remediation, or both,
2873 to satisfy any of the criteria set forth in subsection (b) of this Section, remediation
2874 objectives shall be determined in accordance with Section 732.408 of this Part.
2875 Groundwater monitoring wells shall satisfy the requirements of Section
2876 732.307(j)(3) and (4) of this Part.

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- 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.
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- 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:
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- 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
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- 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.
- 2917
 2918
 2919
- 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

2920 not limited to, the existence of one or more parcels of property within 200
 2921 feet of the current or modeled extent of soil or groundwater contamination
 2922 exceeding the Tier 1 groundwater ingestion exposure route remediation
 2923 objectives of 35 Ill. Adm. Code 742 for the applicable indicator
 2924 contaminants where potable water is likely to be used, but that is not
 2925 served by a public water supply or a well identified pursuant to Section
 2926 732.307(f)(1) of this Part or subsection (e)(1) of this Section. The
 2927 additional investigation may include, but is not limited to, physical well
 2928 surveys (e.g., interviewing property owners, investigating individual
 2929 properties for wellheads, distributing door hangers or other material that
 2930 requests information about the existence of potable wells on the property,
 2931 etc.).

2932
 2933 f) The owner or operator shall submit the corrective action plan to the Agency for
 2934 review in accordance with Section 732.405 of this Part. If the owner or operator
 2935 intends to seek payment from the Fund, a corrective action budget plan also shall
 2936 be submitted to the Agency for review.

2937
 2938 g) Within 30 days after completing the performance of the High Priority corrective
 2939 action plan, the owner or operator shall submit to the Agency a corrective action
 2940 completion report in accordance with Section 732.409 of this Part.

2941
 2942 h) Within 120 days, the Agency shall review the corrective action completion report
 2943 in accordance with the procedures set forth in Subpart E of this Part and shall
 2944 issue a No Further Remediation Letter to the owner or operator in accordance
 2945 with Subpart G of this Part upon approval by the Agency.

2946
 2947 **Section 732.405 Plan Submittal and Review**

2948
 2949 a) Prior to conducting any corrective action activities pursuant to this Subpart D, the
 2950 owner or operator shall submit to the Agency a Low Priority groundwater
 2951 monitoring plan or a High Priority corrective action plan satisfying the minimum
 2952 requirements for such activities as set forth in Section 732.403 or 732.404 of this
 2953 Part, as applicable.

2954
 2955 b) In addition to the plans required in subsections (a), (e), and (f) of this Section and
 2956 prior to conducting any groundwater monitoring or corrective action activities,
 2957 any owner or operator intending to seek payment from the Fund shall submit to
 2958 the Agency a groundwater monitoring or corrective action budget plan with the
 2959 corresponding groundwater monitoring or corrective action plan. Such budget
 2960 plans shall include, but is not limited to, a copy of the eligibility and deductibility
 2961 determination of the OSFM and an estimate of all costs associated with the
 2962 development, implementation and completion of the applicable activities,

- 2963 excluding handling charges. Formulation of budget plans should be consistent
 2964 with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this
 2965 Part and the maximum payment amounts set forth in Subpart H of this Part. As
 2966 part of the budget plan the Agency may require a comparison between the costs of
 2967 the proposed method of remediation and other methods of remediation.
 2968
- 2969 c) The Agency shall have the authority to review and approve, reject or require
 2970 modification of any plan or budget plan submitted pursuant to this Section in
 2971 accordance with the procedures contained in Subpart E of this Part.
 2972
- 2973 d) Notwithstanding subsections (a), (b), (e), and (f) of this Section and except as
 2974 provided at Section 732.407 of this Part, an owner or operator may proceed to
 2975 conduct Low Priority groundwater monitoring or High Priority corrective action
 2976 activities in accordance with this Subpart D prior to the submittal or approval of
 2977 an otherwise required groundwater monitoring plan or budget plan or corrective
 2978 action plan or budget plan. However, any such plan and budget plan shall be
 2979 submitted to the Agency for review and approval, rejection, or modification in
 2980 accordance with the procedures contained in Subpart E of this Part prior to
 2981 payment for any related costs or the issuance of a No Further Remediation Letter.
 2982 BOARD NOTE: Owners or operators proceeding under subsection (d) of this
 2983 Section are advised that they may not be entitled to full payment from the Fund.
 2984 Furthermore, applications for payment must be submitted no later than one year
 2985 after the date the Agency issues a No Further Remediation Letter. See Subpart F
 2986 of this Part.
 2987
- 2988 e) If, following approval of any groundwater monitoring plan, corrective action plan
 2989 or associated budget plan, an owner or operator determines that revised
 2990 procedures or cost estimates are necessary in order to comply with the minimum
 2991 required activities for the site, the owner or operator shall submit, as applicable,
 2992 an amended groundwater monitoring plan, corrective action plan or associated
 2993 budget plan for review by the Agency. The Agency shall review and approve,
 2994 reject, or require modifications of the amended plan or budget plan in accordance
 2995 with the procedures contained in Subpart E of this Part.
 2996
- 2997 f) If the Agency determines any approved corrective action plan has not achieved
 2998 applicable remediation objectives within a reasonable time, based upon the
 2999 method of remediation and site specific circumstances, the Agency may require
 3000 the owner or operator to submit a revised corrective action plan. If the owner or
 3001 operator intends to seek payment from the Fund, the owner or operator must also
 3002 submit a revised budget plan. Any action by the Agency to require a revised
 3003 corrective action plan pursuant to this subsection (f) shall be subject to appeal to
 3004 the Board within 35 days after the Agency's final action in the manner provided
 3005 for the review of permit decisions in Section 40 of the Act.

3006
 3007 BOARD NOTE: Owners and operators are advised that the total payment from the Fund
 3008 for all groundwater monitoring plans and associated budget plans, and for all corrective
 3009 action plans and associated budget plans, submitted by an owner or operator must not
 3010 exceed the amounts set forth in Subpart H of this Part.
 3011

3012 **Section 732.406 Deferred Corrective Action; Priority List for Payment**
 3013

- 3014 a) An owner or operator who has received approval for any budget plan submitted
 3015 pursuant to this Part and who is eligible for payment from the underground
 3016 storage tank fund may elect to defer site classification, low priority groundwater
 3017 monitoring, or remediation activities until funds are available in an amount equal
 3018 to the amount approved in the budget plan if the requirements of subsection (b) of
 3019 this Section are met.
 3020
- 3021 1) Approvals of budget plans shall be pursuant to Agency review in
 3022 accordance with Subpart E of this Part.
 3023
- 3024 2) The Agency shall monitor the availability of funds and shall provide
 3025 notice of insufficient funds to owners or operators in accordance with
 3026 Section 732.503(g) of this Part.
 3027
- 3028 3) Owners and operators must submit elections to defer low priority
 3029 groundwater monitoring or high priority corrective action activities on
 3030 forms prescribed and provided by the Agency and, if specified by the
 3031 Agency by written notice, in an electronic format. The Agency's record of
 3032 the date of receipt must be deemed conclusive unless a contrary date is
 3033 proven by a dated, signed receipt from certified or registered mail.
 3034
- 3035 4) The Agency must review elections to defer low priority groundwater
 3036 monitoring or high priority corrective action activities to determine
 3037 whether the requirements of subsection (b) of this Section are met. The
 3038 Agency must notify the owner or operator in writing of its final action on
 3039 any such election. If the Agency fails to notify the owner or operator of its
 3040 final action within 120 days after its receipt of the election, the owner or
 3041 operator may deem the election rejected by operation of law.
 3042
- 3043 A) The Agency must mail notices of final action on an election to
 3044 defer by registered or certified mail, postmarked with a date stamp
 3045 and with return receipt requested. Final action must be deemed to
 3046 have taken place on the post marked date that such notice is
 3047 mailed.
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- 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;

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- 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.

Section 732.407 Alternative Technologies

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- 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

- 3135 authorize use of the alternative technology;
 3136
 3137 4) The owner or operator will implement a program to monitor whether the
 3138 requirements of subsection (a)(1) of this Section have been met; and
 3139
 3140 5) Within one year from the date of Agency approval the owner or operator
 3141 will provide to the Agency monitoring program results establishing
 3142 whether the proposed alternative technology will successfully achieve
 3143 compliance with the requirements of subsection (a)(1) of this Section and
 3144 any other applicable regulations. The Agency may require interim reports
 3145 as necessary to track the progress of the alternative technology. The
 3146 Agency will specify in the approval when those interim reports shall be
 3147 submitted to the Agency.
 3148
 3149 b) An owner or operator intending to seek payment for costs associated with the use
 3150 of an alternative technology shall submit a corresponding budget plan in
 3151 accordance with Section 732.405 of this Part. In addition to the requirements for
 3152 corrective action budget plans at Section 732.404 of this Part, the budget plan
 3153 must demonstrate that the cost of the alternative technology will not exceed the
 3154 cost of conventional technology and is not substantially higher than other
 3155 available alternative technologies. The budget plan must compare the costs of at
 3156 least two other alternative technologies to the costs of the proposed alternative
 3157 technology, if other alternative technologies are available and are technically
 3158 feasible.
 3159
 3160 c) If an owner or operator has received approval of a corrective action plan and
 3161 associated budget plan from the Agency prior to implementing the plan and the
 3162 alternative technology fails to satisfy the requirements of subsection (a)(1) or
 3163 (a)(2) of this Section, such failure shall not make the owner or operator ineligible
 3164 to seek payment for the activities associated with the subsequent performance of a
 3165 corrective action using conventional technology. However, in no case shall the
 3166 total payment for the site exceed the statutory maximums. Owners or operators
 3167 implementing alternative technologies without obtaining pre-approval shall be
 3168 ineligible to seek payment for the subsequent performance of a corrective action
 3169 using conventional technology.
 3170
 3171 d) The Agency may require remote monitoring of an alternative technology. The
 3172 monitoring may include, but is not limited to, monitoring the alternative
 3173 technology's operation and progress in achieving the applicable remediation
 3174 objectives.
 3175

3176 **Section 732.408 Remediation Objectives**
 3177

3178 For sites requiring High Priority corrective action or for which the owner or operator has elected
3179 to conduct corrective action pursuant to Section 732.300(b), 732.400(b), or 732.400(c) of this
3180 Part, the owner or operator shall propose remediation objectives for applicable indicator
3181 contaminants in accordance with 35 Ill. Adm. Code 742.

3182 Owners and operators seeking payment from the Fund that perform on-site corrective action in
3183 accordance with Tier 2 remediation objectives of 35 Ill. Adm. Code 742 must determine the
3184 following parameters on a site-specific basis:

3185
3186 Hydraulic conductivity (K)

3187
3188 Soil bulk density (ρ_b)

3189
3190 Soil particle density (ρ_s)

3191
3192 Moisture content (w)

3193
3194 Organic carbon content (f_{oc})

3195
3196 BOARD NOTE: Failure to use site-specific remediation objectives on-site and to utilize
3197 available groundwater ordinances as institutional controls may result in certain corrective action
3198 costs being ineligible for payment from the Fund. See Section 732.606(ddd) and (eee) of this
3199 Part.

3200
3201 **Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports**
3202

3203 a) Within 30 days after completing the performance of a Low Priority groundwater
3204 monitoring plan or High Priority corrective action plan, the owner or operator
3205 shall submit to the Agency a groundwater monitoring completion report or a
3206 corrective action completion report.

3207
3208 1) The Low Priority groundwater monitoring completion report shall include,
3209 but is not limited to, a narrative describing the implementation and
3210 completion of all elements of the groundwater monitoring plan and the
3211 procedures used for collection and analysis of samples, analytical results
3212 in tabular form, actual analytical results, laboratory certification and any
3213 other information or documentation relied upon by the Licensed
3214 Professional Engineer or Licensed Professional Geologist in reaching the
3215 conclusion that the requirements of the Act and regulations have been
3216 satisfied and that no further remediation is required at the site.

3217
3218 2) The High Priority corrective action completion report shall include, but is
3219 not limited to, a narrative and timetable describing the implementation and
3220 completion of all elements of the corrective action plan and the procedures

3221 used for the collection and analysis of samples, soil boring logs, actual
3222 analytical results, laboratory certification, site maps, well logs and any
3223 other information or documentation relied upon by the Licensed
3224 Professional Engineer in reaching the conclusion that the requirements of
3225 the Act and regulations have been satisfied and that no further remediation
3226 is required at the site. Documentation of any water supply well survey
3227 conducted pursuant to Section 732.404(e) of this Part must include, but is
3228 not limited to, the following:

- 3229
- 3230 A) One or more maps, to an appropriate scale, showing the following:
 - 3231
 - 3232 i) The location of the community water supply wells and
3233 other potable water supply wells identified pursuant to
3234 Section 732.404(e) of this Part, and the setback zone for
3235 each well;
 - 3236
 - 3237 ii) The location and extent of regulated recharge areas and
3238 wellhead protection areas identified pursuant to Section
3239 732.404(e) of this Part;
 - 3240
 - 3241 iii) The current extent of groundwater contamination exceeding
3242 the Tier 1 groundwater ingestion exposure route
3243 remediation objectives of 35 Ill. Adm. Code 742 for the
3244 applicable indicator contaminants; and
 - 3245
 - 3246 iv) The modeled extent of groundwater contamination
3247 exceeding the Tier 1 groundwater ingestion exposure route
3248 remediation objectives of 35 Ill. Adm. Code 742 for the
3249 applicable indicator contaminants.
 - 3250
 - 3251 B) One or more tables listing the setback zones for each community
3252 water supply well and other potable water supply wells identified
3253 pursuant to Section 732.404(e) of this Part;
 - 3254
 - 3255 C) A narrative that, at a minimum, identifies each entity contacted to
3256 identify potable water supply wells pursuant to Section 732.404(e)
3257 of this Part, the name and title of each person contacted at each
3258 entity, and field observations associated with the identification of
3259 potable water supply wells; and
 - 3260
 - 3261 D) A certification from a Licensed Professional Engineer or Licensed
3262 Professional Geologist that the water supply well survey was
3263 conducted in accordance with the requirements of Section

3264 732.404(e) of this Part and that the documentation submitted
3265 pursuant to this Section includes the information obtained as a
3266 result of the survey.
3267

3268 3) A High Priority corrective action completion report shall demonstrate the
3269 following:
3270

3271 A) For sites submitting a site classification report under Section
3272 732.309 of this Part:
3273

- 3274 i) Applicable indicator contaminant groundwater objectives
3275 are not exceeded at the property boundary line or 200 feet
3276 from the UST system, whichever is less, as a result of the
3277 release of petroleum for any indicator contaminant
3278 identified during the groundwater investigation;
3279
- 3280 ii) Class III resource groundwater quality standards for Class
3281 III special use resource groundwater within 200 feet of the
3282 UST system are not exceeded as a result of the release of
3283 petroleum for any indicator contaminant identified during
3284 the groundwater investigation;
3285
- 3286 iii) The release of petroleum does not threaten human health or
3287 human safety due to the presence or migration, through
3288 natural or manmade pathways, of petroleum in
3289 concentration sufficient to harm human health or human
3290 safety or to cause explosions in basements, crawl spaces,
3291 utility conduits, storm or sanitary sewers, vaults or other
3292 confined spaces;
3293
- 3294 iv) The release of petroleum does not threaten any surface
3295 water body; and
3296
- 3297 v) The release of petroleum does not threaten any potable
3298 water supply.
3299

3300 B) For sites submitting a site classification completion report under
3301 Section 732.312 of this Part, the concentrations of applicable
3302 indicator contaminants meet the remediation objectives developed
3303 under Section 732.408 of this Part for any applicable exposure
3304 route not excluded from further consideration under Section
3305 732.312 of this Part.
3306

3307 b) The applicable report shall be accompanied by a certification from a Licensed
3308 Professional Engineer, in accordance with subsection (a) of this Section, that the
3309 information presented in the applicable report is accurate and complete, that
3310 groundwater monitoring or corrective action have been completed in accordance
3311 with the requirements of the Act and this Subpart D, and that no further
3312 remediation is required at the site.

3314 c) The Agency shall have the authority to review and approve, reject or require
3315 modification of any report submitted pursuant to this Section in accordance with
3316 the procedures contained in Subpart E of this Part.
3317

3318 **Section 732.410 "No Further Remediation" Letter (Repealed)**

3319
3320 **Section 732.411 Off-site Access**

3321
3322 a) An owner or operator seeking to comply with the best efforts requirements of
3323 Section 732.404(c) of this Part must demonstrate compliance with the
3324 requirements of this Section.
3325

3326 b) In conducting best efforts to obtain off-site access, an owner or operator must, at a
3327 minimum, send a letter by certified mail to the owner of any off-site property to
3328 which access is required, stating:
3329

3330 1) Citation to Title XVI of the Act stating the legal responsibility of the
3331 owner or operator to remediate the contamination caused by the release;
3332

3333 2) That, if the property owner denies access to the owner or operator, the
3334 owner or operator may seek to gain entry by a court order pursuant to
3335 Section 22.2c of the Act;
3336

3337 3) That, in performing the requested investigation, the owner or operator will
3338 work so as to minimize any disruption on the property, will maintain, or
3339 its consultant will maintain, appropriate insurance and will repair any
3340 damage caused by the investigation;
3341

3342 4) If contamination results from a release by the owner or operator, the
3343 owner or operator will conduct all associated remediation at its own
3344 expense;
3345

3346 5) That threats to human health and the environment and diminished property
3347 value may result from failure to remediate contamination from the release;
3348 and
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- 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

3393 have an impact on the area of suspected off-site contamination, and the
3394 nature and extent of such impact; and

3395
3396 9) Any other applicable information assembled in compliance with this Part.
3397

3398 e) The Agency shall issue a No Further Remediation Letter to an owner or operator
3399 subject to this Section and otherwise entitled to such issuance only if the owner or
3400 operator has, in accordance with this Section, either completed any requisite off-
3401 site corrective action or demonstrated to the Agency's satisfaction an inability to
3402 obtain off-site access despite best efforts.
3403

3404 f) The owner or operator is not relieved of responsibility to clean up a release that
3405 has migrated beyond the property boundary even where off-site access is denied.
3406

3407 **SUBPART E: REVIEW OF PLANS, BUDGET PLANS, AND REPORTS**
3408

3409 **Section 732.500 General**
3410

3411 The Agency shall have the authority to review any plan, budget plan, or report, including any
3412 amended plan, budget plan, or report, submitted pursuant to this Part. All such reviews shall be
3413 subject to the procedures set forth in the Act and this Subpart E.
3414

3415 **Section 732.501 Submittal of Plans or Reports (Repealed)**
3416

3417 **Section 732.502 Completeness Review (Repealed)**
3418

3419 **Section 732.503 Review of Plans, Budget Plans, or Reports**
3420

3421 a) The Agency may review any or all technical or financial information, or both,
3422 relied upon by the owner or operator or the Licensed Professional Engineer or
3423 Licensed Professional Geologist in developing any plan, budget plan, or report
3424 selected for review. The Agency may also review any other plans, budget plans,
3425 or reports submitted in conjunction with the site.
3426

3427 b) The Agency shall have the authority to approve, reject or require modification of
3428 any plan, budget plan, or report it reviews. The Agency shall notify the owner or
3429 operator in writing of its final action on any such plan, budget plan, or report,
3430 except in the case of 20 day, 45 day or free product removal reports, in which case
3431 no notification is necessary. Except as provided in subsections (c) and (d) of this
3432 Section, if the Agency fails to notify the owner or operator of its final action on a
3433 plan, budget plan, or report within 120 days after the receipt of a plan, budget
3434 plan, or report, the owner or operator may deem the plan, budget plan, or report
3435 rejected by operation of law. If the Agency rejects a plan, budget plan, or report

3436 or requires modifications, the written notification shall contain the following
3437 information, as applicable:

- 3438
- 3439 1) An explanation of the specific type of information, if any, that the Agency
3440 needs to complete the review;
- 3441
- 3442 2) An explanation of the Sections of the Act or regulations that may be
3443 violated if the plan, budget plan, or report is approved; and
3444
- 3445 3) A statement of specific reasons why the cited Sections of the Act or
3446 regulations may be violated if the plan, budget plan, or report is approved.
3447
- 3448 c) For High Priority corrective action plans submitted by owners or operators not
3449 seeking payment from the Fund, the Agency may delay final action on such plans
3450 until 120 days after it receives the corrective action completion report required
3451 pursuant to Section 732.409 of this Part.
3452
- 3453 d) An owner or operator may waive the right to a final decision within 120 days after
3454 the submittal of a complete plan, budget plan, or report by submitting written
3455 notice to the Agency prior to the applicable deadline. Any waiver shall be for a
3456 minimum of 60 days.
3457
- 3458 e) The Agency shall mail notices of final action on plans, budget plans, or reports by
3459 registered or certified mail, post marked with a date stamp and with return receipt
3460 requested. Final action shall be deemed to have taken place on the post marked
3461 date that such notice is mailed.
3462
- 3463 f) Any action by the Agency to reject or require modification, or rejection by failure
3464 to act, of a plan, budget plan, or report shall be subject to appeal to the Board
3465 within 35 days after the Agency's final action in the manner provided for the
3466 review of permit decisions in Section 40 of the Act.
3467
- 3468 g) In accordance with Sections 732.306 and 732.406 of this Part, upon the approval
3469 of any budget plan by the Agency, the Agency shall include as part of the final
3470 notice to the owner or operator a notice of insufficient funds if the Fund does not
3471 contain sufficient funds to provide payment of the total costs approved in the
3472 budget plan.
3473

3474 **Section 732.504 Selection of Plans or Reports for Full Review (Repealed)**
3475

3476 **Section 732.505 Standards for Review of Plans, Budget Plans, or Reports**
3477

- 3478 a) A technical review shall consist of a detailed review of the steps proposed or

3479 completed to accomplish the goals of the plan and to achieve compliance with the
 3480 Act and regulations. Items to be reviewed, if applicable, shall include, but not be
 3481 limited to, number and placement of wells and borings, number and types of
 3482 samples and analysis, results of sample analysis, and protocols to be followed in
 3483 making determinations. The overall goal of the technical review for plans shall be
 3484 to determine if the plan is sufficient to satisfy the requirements of the Act and
 3485 regulations and has been prepared in accordance with generally accepted
 3486 engineering practices or principles of professional geology. The overall goal of
 3487 the technical review for reports shall be to determine if the plan has been fully
 3488 implemented in accordance with generally accepted engineering practices or
 3489 principles of professional geology, if the conclusions are consistent with the
 3490 information obtained while implementing the plan, and if the requirements of the
 3491 Act and regulations have been satisfied.

3492
 3493 b) If the Licensed Professional Engineer or Licensed Professional Geologist certifies
 3494 that there is no evidence that, through natural or manmade pathways, migration of
 3495 petroleum or vapors threaten human health or human safety or may cause
 3496 explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers,
 3497 vaults or other confined spaces, the Licensed Professional Engineer's or Licensed
 3498 Professional Geologist's certification to that effect shall be presumed correct
 3499 unless the Agency's review reveals objective evidence to the contrary.

3500
 3501 c) A financial review shall consist of a detailed review of the costs associated with
 3502 each element necessary to accomplish the goals of the plan as required pursuant to
 3503 the Act and regulations. Items to be reviewed shall include, but are not limited to,
 3504 costs associated with any materials, activities or services that are included in the
 3505 budget plan. The overall goal of the financial review shall be to assure that costs
 3506 associated with materials, activities and services shall be reasonable, shall be
 3507 consistent with the associated technical plan, shall be incurred in the performance
 3508 of corrective action activities, shall not be used for corrective action activities in
 3509 excess of those necessary to meet the minimum requirements of the Act and
 3510 regulations, and must not exceed the maximum payment amounts set forth in
 3511 Subpart H of this Part.

3512
 3513 **SUBPART F: PAYMENT OR REIMBURSEMENT**

3514
 3515 **Section 732.600 General**

3516
 3517 The Agency shall have the authority to review any application for payment or reimbursement
 3518 and to authorize payment or reimbursement from the Fund or such other funds as the legislature
 3519 directs for corrective action activities conducted pursuant to the Act and this Part 732. For
 3520 purposes of this Part and unless otherwise provided, the use of the word "payment" shall include
 3521 reimbursement. The submittal and review of applications for payment and the authorization for

3522 payment shall be in accordance with the procedures set forth in the Act and this Subpart F.
 3523

3524 **Section 732.601 Applications for Payment**
 3525

- 3526 a) An owner or operator seeking payment from the Fund shall submit to the Agency
 3527 an application for payment on forms prescribed and provided by the Agency and,
 3528 if specified by the Agency by written notice, in an electronic format. The owner
 3529 or operator may submit an application for partial payment or final payment. Costs
 3530 for which payment is sought must be approved in a budget plan, provided,
 3531 however, that no budget plan shall be required for early action activities
 3532 conducted pursuant to Subpart B of this Part other than free product removal
 3533 activities conducted more than 45 days after confirmation of the presence of free
 3534 product.
 3535
- 3536 b) A complete application for payment shall consist of the following elements:
 3537
 - 3538 1) A certification from a Licensed Professional Engineer or a Licensed
 3539 Professional Geologist acknowledged by the owner or operator that the
 3540 work performed has been in accordance with a technical plan approved by
 3541 the Agency or, for early action activities, in accordance with Subpart B of
 3542 this Part;
 - 3543 2) A statement of the amounts approved in the corresponding budget plan
 3544 and the amounts actually sought for payment along with a certified
 3545 statement by the owner or operator that the amounts so sought have been
 3546 expended in conformance with the elements of a budget plan approved by
 3547 the Agency;
 - 3548 3) A copy of the OSFM or Agency eligibility and deductibility
 3549 determination;
 - 3550 4) Proof that approval of the payment requested will not exceed the
 3551 limitations set forth in the Act and Section 732.604 of this Part;
 - 3552 5) A federal taxpayer identification number and legal status disclosure
 3553 certification;
 - 3554 6) A private insurance coverage form;
 - 3555 7) A minority/women's business form;
 - 3556 8) Designation of the address to which payment and notice of final action on
 3557 the application for payment are to be sent;
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- 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

3608 corrective action completion report.

3609
3610 j) All applications for payment of corrective action costs must be submitted no later
3611 than one year after the date the Agency issues a No Further Remediation Letter
3612 pursuant to Subpart G of this Part. For releases for which the Agency issued a No
3613 Further Remediation Letter prior to March 1, 2006, all applications for payment
3614 must be submitted no later than March 1, 2007.

3615
3616 **Section 732.602 Review of Applications for Payment**
3617

- 3618 a) At a minimum, the Agency must review each application for payment submitted
3619 pursuant to this Part to determine the following:
3620
- 3621 1) whether the application contains all of the elements and supporting
3622 documentation required by Section 732.601(b) of this Part;
3623
 - 3624 2) for costs incurred pursuant to Subpart B of this Part, other than free
3625 product removal activities conducted more than 45 days after confirmation
3626 of the presence of free product, whether the amounts sought are
3627 reasonable, and whether there is sufficient documentation to demonstrate
3628 that the work was completed in accordance with the requirements of this
3629 Part;
3630
 - 3631 3) for costs incurred pursuant to Subpart C of this Part and free product
3632 removal activities conducted more than 45 days after confirmation of the
3633 presence of free product, whether the amounts sought exceed the amounts
3634 approved in the corresponding budget plan, and whether there is sufficient
3635 documentation to demonstrate that the work was completed in accordance
3636 with the requirements of this Part and a plan approved by the Agency; and
3637
 - 3638 4) Whether the amounts sought are eligible for payment.
3639
- 3640 b) When conducting a review of any application for payment, the Agency may
3641 require the owner or operator to submit a full accounting supporting all claims as
3642 provided in subsection (c) of this Section.
3643
- 3644 c) The Agency's review may include review of any or all elements and supporting
3645 documentation relied upon by the owner or operator in developing the application
3646 for payment, including but not limited to a review of invoices or receipts
3647 supporting all claims. The review also may include the review of any plans,
3648 budget plans, or reports previously submitted for the site to ensure that the
3649 application for payment is consistent with work proposed and actually performed
3650 in conjunction with the site.

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- 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.

Section 732.603 Authorization for Payment; Priority List

- 3691
 - 3692
 - 3693
- a) Within 60 days after notification to an owner or operator that the application for

3694 payment or a portion thereof has been approved by the Agency or by operation of
 3695 law, the Agency shall forward to the Office of the State Comptroller in
 3696 accordance with subsection (d) or (e) of this Section a voucher in the amount
 3697 approved. If the owner or operator has filed an appeal with the Board of the
 3698 Agency's final decision on an application for payment, the Agency shall have 60
 3699 days after the final resolution of the appeal to forward to the Office of the State
 3700 Comptroller a voucher in the amount ordered as a result of the appeal.
 3701 Notwithstanding the time limits imposed by this Section, the Agency shall not
 3702 forward vouchers to the Office of the State Comptroller until sufficient funds are
 3703 available to issue payment.
 3704

- 3705 b) The following rules shall apply regarding deductibles:
- 3706
- 3707 1) Any deductible, as determined by the OSFM or the Agency, shall be
 3708 subtracted from any amount approved for payment by the Agency or by
 3709 operation of law or ordered by the Board or courts;
- 3710
- 3711 2) Only one deductible shall apply per occurrence;
- 3712
- 3713 3) If multiple incident numbers are issued for a single site in the same
 3714 calendar year, only one deductible shall apply for those incidents, even if
 3715 the incidents relate to more than one occurrence; and
- 3716
- 3717 4) Where more than one deductible determination is made, the higher
 3718 deductible shall apply.
 3719
- 3720 c) The Agency shall instruct the Office of the State Comptroller to issue payment to
 3721 the owner or operator at the address designated in accordance with Section
 3722 732.601(b)(8) or (c) of this Part. In no case shall the Agency authorize the Office
 3723 of the State Comptroller to issue payment to an agent, designee, or entity that has
 3724 conducted corrective action activities for the owner or operator.
 3725
- 3726 d) For owners or operators who have deferred site classification or corrective action
 3727 in accordance with Section 732.306 or 732.406 of this Part, payment shall be
 3728 authorized from funds encumbered pursuant to Section 732.306(a)(6) or
 3729 732.406(a)(6) of this Part upon approval of the application for payment by the
 3730 Agency or by operation of law.
 3731
- 3732 e) For owners or operators not electing to defer site classification or corrective
 3733 action in accordance with Section 732.306 or 732.406 of this Part, the Agency
 3734 shall form a priority list for payment for the issuance of vouchers pursuant to
 3735 subsection (a) of this Section.
 3736

- 3737 1) All such applications for payment shall be assigned a date that is the date
- 3738 upon which the complete application for partial or final payment was
- 3739 received by the Agency. This date shall determine the owner's or
- 3740 operator's priority for payment in accordance with subsection (e)(2) of this
- 3741 Section, with the earliest dates receiving the highest priority.
- 3742
- 3743 2) Once payment is approved by the Agency or by operation of law or
- 3744 ordered by the Board or courts, the application for payment shall be
- 3745 assigned priority in accordance with subsection (e)(1) of this Section. The
- 3746 assigned date shall be the only factor determining the priority for payment
- 3747 for those applications approved for payment.
- 3748

Section 732.604 Limitations on Total Payments

- 3749
- 3750
- 3751 a) Limitations per occurrence:
- 3752
- 3753 1) The Agency must not approve any payment from the Fund to pay an
- 3754 owner or operator for costs of corrective action incurred by the owner or
- 3755 operator in an amount in excess of \$1,000,000 per occurrence.
- 3756
- 3757 2) The Agency must not approve any payment from the Fund to pay an
- 3758 owner or operator for costs of indemnification of the owner or operator in
- 3759 an amount in excess of \$1,000,000 per occurrence.
- 3760
- 3761 b) Aggregate limitations:
- 3762
- 3763 1) Notwithstanding any other provision of this Part, the Agency must not
- 3764 approve payment to an owner or operator from the Fund for costs of
- 3765 corrective action or indemnification incurred during a calendar year in
- 3766 excess of the following amounts based on the number of petroleum
- 3767 underground storage tanks owned or operated by the owner or operator in
- 3768 Illinois:
- 3769

Amount	Number of Tanks
\$1,000,000	fewer than 101
\$2,000,000	101 or more

- 3770
- 3771 2) Costs incurred in excess of the aggregate amounts set forth in subsection
- 3772 (b)(1) of this Section will not be eligible for payment in subsequent years.
- 3773
- 3774 c) *For purposes of subsection (b) of this Section, requests submitted by any of the*
- 3775 *agencies, departments, boards, committees or commissions of the State of Illinois*

3776 *shall be acted upon as claims from a single owner or operator* [415 ILCS
3777 *5/57.8(d)(2)].*
3778

- 3779 d) *For purposes of subsection (b) of this Section, owner or operator includes:*
3780
3781 1) *any subsidiary, parent, or joint stock company of the owner or operator;*
3782 *and*
3783
3784 2) *any company owned by any parent, subsidiary, or joint stock company of*
3785 *the owner or operator* [415 ILCS 5/57.8(d)(3)].
3786

3787 **Section 732.605 Eligible Corrective Action Costs**
3788

- 3789 a) Types of costs that may be eligible for payment from the Fund include those for
3790 corrective action activities and for materials or services provided or performed in
3791 conjunction with corrective action activities. Such activities and services may
3792 include but are not limited to reasonable costs for:
3793
3794 1) Early action activities conducted pursuant to Subpart B of this Part;
3795
3796 2) Engineer or geologist oversight services;
3797
3798 3) Remedial investigation and design;
3799
3800 4) Laboratory services necessary to determine site classification and whether
3801 the established remediation objectives have been met;
3802
3803 5) The installation and operation of groundwater investigation and
3804 groundwater monitoring wells;
3805
3806 6) The removal, treatment, transportation, and disposal of soil contaminated
3807 by petroleum at levels in excess of the established remediation objectives;
3808
3809 7) The removal, treatment, transportation, and disposal of water
3810 contaminated by petroleum at levels in excess of the established
3811 remediation objectives;
3812
3813 8) The placement of clean backfill to grade to replace excavated soil
3814 contaminated by petroleum at levels in excess of the established
3815 remediation objectives;
3816
3817 9) Groundwater corrective action systems;
3818

- 3819 10) Alternative technology, including but not limited to feasibility studies
 3820 approved by the Agency;
 3821
- 3822 11) Recovery of free product exceeding one-eighth of an inch in depth as
 3823 measured in a groundwater monitoring well, or present as a sheen on
 3824 groundwater in the tank removal excavation or on surface water;
 3825
- 3826 12) The removal and disposal of any UST if a release of petroleum from the
 3827 UST was identified and IEMA was notified prior to its removal, with the
 3828 exception of any UST deemed ineligible by the OSFM;
 3829
- 3830 13) Costs incurred as a result of a release of petroleum because of vandalism,
 3831 theft or fraudulent activity by a party other than an owner, operator or
 3832 agent of an owner or operator;
 3833
- 3834 14) Engineer or geologist costs associated with seeking payment from the
 3835 Fund including, but not limited to, completion of an application for partial
 3836 or final payment;
 3837
- 3838 15) Costs associated with obtaining an Eligibility and Deductibility
 3839 Determination from the OSFM or the Agency;
 3840
- 3841 16) Costs for destruction and replacement of concrete, asphalt, or paving to
 3842 the extent necessary to conduct corrective action if the concrete, asphalt,
 3843 or paving was installed prior to the initiation of corrective action activities,
 3844 the destruction and replacement has been certified as necessary to the
 3845 performance of corrective action by a Licensed Professional Engineer, and
 3846 the destruction and replacement and its costs are approved by the Agency
 3847 in writing prior to the destruction and replacement. The costs for
 3848 destruction and replacement of concrete, asphalt, and paving must not be
 3849 paid more than once. Costs associated with the replacement of concrete,
 3850 asphalt, or paving must not be paid in excess of the cost to install, in the
 3851 same area and to the same depth, the same material that was destroyed
 3852 (e.g., replacing four inches of concrete with four inches of concrete);
 3853
- 3854 17) The destruction or dismantling and reassembly of above grade structures
 3855 in response to a release of petroleum if such activity has been certified as
 3856 necessary to the performance of corrective action by a Licensed
 3857 Professional Engineer and such activity and its costs are approved by the
 3858 Agency in writing prior to the destruction or dismantling and re-assembly.
 3859 Such costs must not be paid in excess of a total \$10,000 per occurrence.
 3860 For purposes of this subsection (a)(17), destruction, dismantling, or
 3861 reassembly of above grade structures does not include costs associated

- 3862 with replacement of pumps, pump islands, buildings, wiring, lighting,
3863 bumpers, posts, or canopies;
3864
3865 18) Preparation of reports submitted pursuant to Section 732.202(h)(3) of this
3866 Part, free product removal plans and associated budget plans, free product
3867 removal reports, site classification plans (including physical soil
3868 classification and groundwater investigation plans) and associated budget
3869 plans, site classification reports, groundwater monitoring plans and
3870 associated budget plans, groundwater monitoring completion reports, High
3871 Priority corrective action plans and associated budget plans, and High
3872 Priority corrective action completion reports;
3873
3874 19) Costs associated with the removal or abandonment of a potable water
3875 supply well, and replacement of the well or connection to a public water
3876 supply, whichever is less, if a Licensed Professional Engineer or Licensed
3877 Professional Geologist certifies that such activity is necessary to the
3878 performance of corrective action and that the property served by the well
3879 cannot receive an adequate supply of potable water from an existing
3880 source other than the removed or abandoned well, and the Agency
3881 approves such activity in writing. If the well being removed or abandoned
3882 is a public water supply well, the Licensed Professional Engineer or
3883 Licensed Professional Geologist is required to certify only that the
3884 removal or abandonment of the well is necessary to the performance of
3885 corrective action; and
3886
3887 20) Costs associated with the repair or replacement of potable water supply
3888 lines damaged to the point of requiring repair or replacement as a direct
3889 result of the release, if such activity is certified by a Licensed Professional
3890 Engineer or Licensed Professional Geologist as necessary for the
3891 protection of the potable water supply and approved by the Agency in
3892 writing.
3893
3894 b) An owner or operator may submit a budget plan or application for partial or final
3895 payment that includes an itemized accounting of costs associated with activities,
3896 materials or services not identified in subsection (a) of this Section if the owner or
3897 operator submits detailed information demonstrating that the activities, materials
3898 or services not identified in subsection (a) of this Section are essential to the
3899 completion of the minimum corrective action requirements of the Act and this
3900 Part.
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3902 **Section 732.606 Ineligible Corrective Action Costs**
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3904 Costs ineligible for payment from the Fund include but are not limited to:

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- 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

- 3948 abandoned, or permitted for removal or abandonment, by the OSFM before the
3949 owner or operator provided notice to IEMA of a release of petroleum;
3950
- 3951 l) Costs associated with the installation of new USTs, the repair of existing USTs
3952 and removal and disposal of USTs determined to be ineligible by the Office of the
3953 State Fire Marshal;
3954
- 3955 m) Costs exceeding those contained in a budget plan or amended budget plan
3956 approved by the Agency;
3957
- 3958 n) Costs of corrective action incurred before providing notification of the release of
3959 petroleum to IEMA in accordance with Section 732.202 of this Part;
3960
- 3961 o) Costs for corrective action activities and associated materials or services
3962 exceeding the minimum requirements necessary to comply with the Act;
3963
- 3964 p) Costs associated with improperly installed sampling or monitoring wells;
3965
- 3966 q) Costs associated with improperly collected, transported, or analyzed laboratory
3967 samples;
3968
- 3969 r) Costs associated with the analysis of laboratory samples not approved by the
3970 Agency;
3971
- 3972 s) Costs for any corrective activities, services or materials unless accompanied by a
3973 letter from OSFM or the Agency confirming eligibility and deductibility in
3974 accordance with Section 57.9 of the Act;
3975
- 3976 t) Interest or finance costs charged as direct costs;
3977
- 3978 u) Insurance costs charged as direct costs;
3979
- 3980 v) Indirect corrective action costs for personnel, materials, service, or equipment
3981 charged as direct costs;
3982
- 3983 w) Costs associated with the compaction and density testing of backfill material;
3984
- 3985 x) Costs associated with sites that have not reported a release to IEMA or are not
3986 required to report a release to IEMA;
3987
- 3988 y) Costs related to activities, materials or services not necessary to stop, minimize,
3989 eliminate, or clean up a release of petroleum or its effects in accordance with the
3990 minimum requirements of the Act [415 ILCS 5] and regulations;

- 3991
- 3992 z) Costs incurred after completion of early action activities in accordance with
- 3993 Subpart B by owners or operators choosing, pursuant to Section 732.300(b) of this
- 3994 Part, to conduct remediation sufficient to satisfy the remediation objectives;
- 3995
- 3996 aa) Costs incurred after completion of site classification activities in accordance with
- 3997 Subpart C by owners or operators choosing, pursuant to Section 732.400(b) or (c)
- 3998 of this Part, to conduct remediation sufficient to satisfy the remediation
- 3999 objectives;
- 4000
- 4001 bb) Costs of alternative technology that exceed the costs of conventional technology;
- 4002
- 4003 cc) Costs for activities and related services or materials that are unnecessary,
- 4004 inconsistent with generally accepted engineering practices or principles of
- 4005 professional geology, or unreasonable costs for justifiable activities, materials, or
- 4006 services;
- 4007
- 4008 dd) Costs to prepare site classification plans and associated budget plans under
- 4009 Section 732.305 of this Part, to perform site classification under Section 732.307
- 4010 of this Part, or to prepare site classification completion reports under Section
- 4011 732.309 of this Part, for sites where owners or operators have elected to classify
- 4012 under Section 732.312 of this Part;
- 4013
- 4014 ee) Costs to prepare site classification plans and associated budget plans under
- 4015 Section 732.312 of this Part, to perform site classification under Section 732.312
- 4016 of this Part, or to prepare site classification completion reports under Section
- 4017 732.312 of this Part, for sites where owners or operators have performed
- 4018 classification activities under Sections 732.305, 732.307, or 732.309 of this Part;
- 4019
- 4020 ff) Costs requested that are based on mathematical errors;
- 4021
- 4022 gg) Costs that lack supporting documentation;
- 4023
- 4024 hh) Costs proposed as part of a budget plan that are unreasonable;
- 4025
- 4026 ii) Costs incurred during early action that are unreasonable;
- 4027
- 4028 jj) Costs incurred on or after the date the owner or operator enters the Site
- 4029 Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to
- 4030 address the UST release;
- 4031
- 4032 kk) Costs incurred after receipt of a No Further Remediation Letter for the occurrence
- 4033 for which the No Further Remediation Letter was received. This subsection (kk)

- 4034 does not apply to the following:
4035
4036 1) Costs incurred for MTBE remediation pursuant to Section 732.310(i)(2) of
4037 this Part;
4038
4039 2) Monitoring well abandonment costs;
4040
4041 3) County recorder or registrar of titles fees for recording the No Further
4042 Remediation Letter;
4043
4044 4) Costs associated with seeking payment from the Fund; and
4045
4046 5) Costs associated with remediation to Tier 1 remediation objectives on-site
4047 if a court of law voids or invalidates a No Further Remediation Letter and
4048 orders the owner or operator to achieve Tier 1 remediation objectives in
4049 response to the release;
4050
4051 ll) Handling charges for subcontractor costs that have been billed directly to the
4052 owner or operator;
4053
4054 mm) Handling charges for subcontractor costs when the contractor has not submitted
4055 proof of payment of the subcontractor costs;
4056
4057 nn) Costs associated with standby and demurrage;
4058
4059 oo) Costs associated with a corrective action plan incurred after the Agency notifies
4060 the owner or operator, pursuant to Section 732.405(f) of this Part, that a revised
4061 corrective action plan is required, provided, however, that costs associated with
4062 any subsequently approved corrective action plan will be eligible for payment if
4063 they meet the requirements of this Part;
4064
4065 pp) Costs incurred after the effective date of an owner's or operator's election to
4066 proceed in accordance with 35 Ill. Adm. Code 734;
4067
4068 qq) Costs associated with the preparation of free product removal reports not
4069 submitted in accordance with the schedule established in Section 732.203(a)(5) of
4070 this Part;
4071
4072 rr) Costs submitted more than one year after the date the Agency issues a No Further
4073 Remediation Letter pursuant to Subpart G of this Part;
4074
4075 ss) Costs for the destruction and replacement of concrete, asphalt, or paving, except
4076 as otherwise provided in Section 732.605(a)(16) of this Part;

- 4077
- 4078 tt) Costs incurred as a result of the destruction of, or damage to, any equipment,
- 4079 fixtures, structures, utilities, or other items during corrective action activities,
- 4080 except as otherwise provided in Section 732.605(a)(16) or (17) of this Part;
- 4081
- 4082 uu) Costs associated with oversight by an owner or operator;
- 4083
- 4084 vv) Handling charges charged by persons other than the owner's or operator's primary
- 4085 contractor;
- 4086
- 4087 ww) Costs associated with the installation of concrete, asphalt, or paving as an
- 4088 engineered barrier to the extent they exceed the cost of installing an engineered
- 4089 barrier constructed of asphalt four inches in depth. This subsection does not apply
- 4090 if the concrete, asphalt, or paving being used as an engineered barrier was
- 4091 replaced pursuant to Section 732.605(a)(16) of this Part;
- 4092
- 4093 xx) The treatment or disposal of soil that does not exceed the applicable remediation
- 4094 objectives for the release, unless approved by the Agency in writing prior to the
- 4095 treatment or disposal;
- 4096
- 4097 yy) Costs associated with the removal or abandonment of a potable water supply well,
- 4098 or the replacement of such a well or connection to a public water supply, except
- 4099 as otherwise provided in Section 732.605(a)(19) of this Part;
- 4100
- 4101 zz) Costs associated with the repair or replacement of potable water supply lines,
- 4102 except as otherwise provided in Section 732.605(a)(20) of this Part;
- 4103
- 4104 aaa) Costs associated with the replacement of underground structures or utilities,
- 4105 including but not limited to septic tanks, utility vaults, sewer lines, electrical lines,
- 4106 telephone lines, cable lines, or water supply lines, except as otherwise provided in
- 4107 Sections 732.605(a)(19) or (20) of this Part;
- 4108
- 4109 bbb) Costs associated with the maintenance, repair, or replacement of leased or
- 4110 subcontracted equipment, other than costs associated with routine maintenance
- 4111 that are approved in a budget plan;
- 4112
- 4113 ccc) Costs that exceed the maximum payment amounts set forth in Subpart H of this
- 4114 Part;
- 4115
- 4116 ddd) Costs associated with on-site corrective action to achieve remediation objectives
- 4117 that are more stringent than the Tier 2 remediation objectives developed in
- 4118 accordance with 35 Ill. Adm. Code 742. This subsection (ddd) does not apply if
- 4119 Karst geology prevents the development of Tier 2 remediation objectives for on-

4120 site remediation, or if a court of law voids or invalidates a No Further
 4121 Remediation Letter and orders the owner or operator to achieve Tier 1
 4122 remediation objectives on-site in response to the release;
 4123
 4124 eee) Costs associated with groundwater remediation if a groundwater ordinance
 4125 already approved by the Agency for use as an institutional control in accordance
 4126 with 35 Ill. Adm. Code 742 can be used as an institutional control for the release
 4127 being remediated.
 4128

Section 732.607 Payment for Handling Charges

4129 Handling charges are eligible for payment only if they are equal to or less than the amount
4130 determined by the following table:
4131
4132
4133

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

4134
4135 **Section 732.608 Apportionment of Costs**
4136

- 4137 a) The Agency may apportion payment of costs if:
 4138
 4139 1) *The owner or operator was deemed eligible to access the Fund for*
 4140 *payment of corrective action costs for some, but not all, of the*
 4141 *underground storage tanks at the site; and*
 4142
 4143 2) *The owner or operator failed to justify all costs attributable to each*
 4144 *underground storage tank at the site. [415 ILCS 5/57.8(m)]*
 4145
 4146 b) The Agency will determine, based on volume or number of tanks, which method
 4147 of apportionment will be most favorable to the owner or operator. The Agency
 4148 will notify the owner or operator of such determination in writing.
 4149

4150 **Section 732.609 Subrogation of Rights**
4151

4152 *Payment of any amount from the fund for corrective action or indemnification shall be subject to*
4153 *the State acquiring by subrogation the rights of any owner, operator, or other person to recover*
4154 *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)].

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;

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- 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

4240 list for payment until the Agency has received the written approval of the
 4241 Attorney General. The approved application for payment shall then enter the
 4242 priority list established at Section 732.603(e)(1) of this Part based on the date the
 4243 complete application was received by the Agency in accordance with Section
 4244 57.8(c) of the Act.
 4245

4246 d) Costs ineligible for indemnification from the Fund include, but are not limited to:

- 4247
- 4248 1) Amounts an owner or operator is not legally obligated to pay pursuant to a
 4249 judgment entered against the owner or operator in a court of law, a final
 4250 order or determination made against the owner or operator by an agency of
 4251 State government or any subdivision thereof, or any settlement entered
 4252 into by the owner or operator;
 4253
- 4254 2) Amounts of a judgment, final order, determination, or settlement that do
 4255 not arise out of bodily injury or property damage suffered as a result of a
 4256 release of petroleum from an underground storage tank owned or operated
 4257 by the owner or operator;
 4258
- 4259 3) Amounts incurred prior to July 28, 1989;
 4260
- 4261 4) Amounts incurred prior to notification of the release of petroleum to
 4262 IEMA in accordance with Section 732.202 of this Part;
 4263
- 4264 5) Amounts arising out of bodily injury or property damage suffered as a
 4265 result of a release of petroleum from an underground storage tank for
 4266 which the owner or operator is not eligible to access the Fund;
 4267
- 4268 6) Legal fees or costs, including but not limited to legal fees or costs for
 4269 seeking payment under this Part unless the owner or operator prevails
 4270 before the Board and the Board authorizes payment of such costs;
 4271
- 4272 7) Amounts associated with activities that violate any provision of the Act or
 4273 Board, OSFM, or Agency regulations;
 4274
- 4275 8) Amounts associated with investigative action, preventive action,
 4276 corrective action, or enforcement action taken by the State of Illinois if the
 4277 owner or operator failed, without sufficient cause, to respond to a release
 4278 or substantial threat of a release upon, or in accordance with, a notice
 4279 issued by the Agency pursuant to Section 732.105 of this Part and Section
 4280 57.12 of the Act;
 4281

- 4282 9) Amounts associated with a release that has not been reported to IEMA or
 4283 is not required to be reported to IEMA;
 4284
 4285 10) Amounts incurred on or after the date the owner or operator enters the Site
 4286 Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code
 4287 740 to address the UST release; and
 4288
 4289 11) Amounts incurred after the effective date of the owner's or operator's
 4290 election to proceed in accordance with 35 Ill. Adm. Code 734.
 4291

4292 **Section 732.611 Costs Covered by Insurance, Agreement or Court Order**
 4293

4294 *Costs of corrective action or indemnification incurred by an owner or operator which have been*
 4295 *paid to an owner or operator under a policy of insurance, another written agreement, or a court*
 4296 *order are not eligible for payment from the Fund. An owner or operator who receives payment*
 4297 *under a policy of insurance, another written agreement, or a court order shall reimburse the*
 4298 *State to the extent such payment covers costs for which payment was received from the Fund.*
 4299 (Section 57.8(e) of the Act)
 4300

4301 **Section 732.612 Determination and Collection of Excess Payments**
 4302

- 4303 a) If, for any reason, the Agency determines that an excess payment has been paid
 4304 from the Fund, the Agency may take steps to collect the excess amount pursuant
 4305 to subsection (c) of this Section.
 4306
 4307 1) Upon identifying an excess payment, the Agency shall notify the owner or
 4308 operator receiving the excess payment by certified or registered mail,
 4309 return receipt requested.
 4310
 4311 2) The notification letter shall state the amount of the excess payment and the
 4312 basis for the Agency's determination that the payment is in error.
 4313
 4314 3) The Agency's determination of an excess payment shall be subject to
 4315 appeal to the Board in the manner provided for the review of permit
 4316 decisions in Section 40 of the Act.
 4317
 4318 b) An excess payment from the Fund includes, but is not limited to:
 4319
 4320 1) Payment for a non-corrective action cost;
 4321
 4322 2) Payment in excess of the limitations on payments set forth in Sections
 4323 732.604 and 732.607 and Subpart H of this Part;
 4324

- 4325 3) Payment received through fraudulent means;
- 4326
- 4327 4) Payment calculated on the basis of an arithmetic error;
- 4328
- 4329 5) Payment calculated by the Agency in reliance on incorrect information; or
- 4330
- 4331 6) Payment of costs that are not eligible for payment.
- 4332
- 4333 c) Excess payments may be collected using any of the following procedures:
- 4334
- 4335 1) Upon notification of the determination of an excess payment in
- 4336 accordance with subsection (a) of this Section or pursuant to a Board order
- 4337 affirming such determination upon appeal, the Agency may attempt to
- 4338 negotiate a payment schedule with the owner or operator. Nothing in this
- 4339 subsection (c)(1) of this Section shall prohibit the Agency from exercising
- 4340 at any time its options at subsection (c)(2) or (c)(3) of this Section or any
- 4341 other collection methods available to the Agency by law.
- 4342
- 4343 2) If an owner or operator submits a subsequent claim for payment after
- 4344 previously receiving an excess payment from the Fund, the Agency may
- 4345 deduct the excess payment amount from any subsequently approved
- 4346 payment amount. If the amount subsequently approved is insufficient to
- 4347 recover the entire amount of the excess payment, the Agency may use the
- 4348 procedures in this Section or any other collection methods available to the
- 4349 Agency by law to collect the remainder.
- 4350
- 4351 3) The Agency may deem an excess payment amount to be a claim or debt
- 4352 owed the Agency, and the Agency may use the Comptroller's Setoff
- 4353 System for collection of the claim or debt in accordance with Section 10.5
- 4354 of the "State Comptroller Act" [15 ILCS 405/10.05].
- 4355

Section 732.614 Audits and Access to Records; Records Retention

- 4356
- 4357
- 4358 a) Owners or operators that submit a report, plan, budget, application for payment,
- 4359 or any other data or document under this Part must maintain all books, records,
- 4360 documents, and other evidence directly pertinent to the report, plan, budget,
- 4361 application for payment, data, or document, including but not limited to all
- 4362 financial information and data used in the preparation or support of applications
- 4363 for payment. All books, records, documents, and other evidence must be
- 4364 maintained in accordance with accepted business practices and appropriate
- 4365 accounting procedures and practices.
- 4366

- 4367 b) The Agency or any of its duly authorized representatives must have access to the
 4368 books, records, documents, and other evidence set forth in subsection (a) of this
 4369 Section during normal business hours for the purpose of inspection, audit, and
 4370 copying. Owners or operators must provide proper facilities for such access and
 4371 inspection.
 4372
- 4373 c) Owners or operators must maintain the books, records, documents, and other
 4374 evidence set forth in subsection (a) of this Section and make them available to the
 4375 Agency or its authorized representative until the latest of the following:
 4376
- 4377 1) The expiration of 4 years after the date the Agency issues a No Further
 4378 Remediation Letter pursuant to Subpart G of this Part;
 4379
- 4380 2) For books, records, documents, or other evidence relating to an appeal,
 4381 litigation, or other dispute or claim, the expiration of 3 years after the date
 4382 of the final disposition of the appeal, litigation, or other dispute or claim;
 4383 or
 4384
- 4385 3) The expiration of any other applicable record retention period.
 4386

4387 SUBPART G: NO FURTHER REMEDIATION LETTERS
 4388 AND RECORDING REQUIREMENTS
 4389

4390 **Section 732.700 General**
 4391

4392 Subpart G provides the procedures for issuance of No Further Remediation Letters under Title
 4393 XVI and this Part. Subpart G also sets forth the recording requirements and the circumstances
 4394 under which the letter may be voidable.
 4395

4396 **Section 732.701 Issuance of a No Further Remediation Letter**
 4397

- 4398 a) Upon approval by the Agency of a report submitted pursuant to Section
 4399 732.202(h)(3) of this Part, a No Further Action site classification report, a Low
 4400 Priority groundwater monitoring completion report, or a High Priority corrective
 4401 action completion report, the Agency shall issue to the owner or operator a No
 4402 Further Remediation Letter. The No Further Remediation Letter shall have the
 4403 legal effect prescribed in Section 57.10 of the Act. The No Further Remediation
 4404 Letter shall be denied if the Agency rejects or requires modification of the
 4405 applicable report.
 4406
- 4407 b) The Agency shall have 120 days after the date of receipt of a complete report to
 4408 issue a No Further Remediation Letter and may include the No Further
 4409 Remediation Letter as part of the notification of approval of the applicable report

- 4410 in accordance with Subpart E of this Part. If the Agency fails to send the No
 4411 Further Remediation Letter within 120 days, it shall be deemed denied by
 4412 operation of law.
 4413
 4414 c) The notice of denial of a No Further Remediation Letter by the Agency may be
 4415 included with the notification of rejection or modification of the applicable report.
 4416 The reasons for the denial shall be stated in the notification. The denial shall be
 4417 considered a final determination appealable to the Board within 35 days after the
 4418 Agency's final action in the manner provided for the review of permit decisions in
 4419 Section 40 of the Act. If any request for a No Further Remediation Letter is
 4420 denied by operation of law, in lieu of an immediate repeal to the Board the owner
 4421 or operator may either resubmit the request and applicable report to the Agency or
 4422 file a joint request for a 90 day extension in the manner provided for extensions of
 4423 permit decision in Section 40 of the Act.
 4424
 4425 d) The Agency shall mail the No Further Remediation Letter by registered or
 4426 certified mail, postmarked with a date stamp and with return receipt requested.
 4427 Final action shall be deemed to have taken place on the postmarked date that the
 4428 letter is mailed.
 4429
 4430 e) The Agency at any time may correct errors in No Further Remediation Letters
 4431 that arise from oversight, omission or clerical mistake. Upon correction of the No
 4432 Further Remediation Letter, the Agency shall mail the corrected letter to the
 4433 owner or operator as set forth in subsection (d) of this Section. The corrected
 4434 letter shall be perfected by recording in accordance with the requirements of
 4435 Section 732.703 of this Part.
 4436

4437 **Section 732.702 Contents of a No Further Remediation Letter**

4438
 4439 A No Further Remediation Letter issued pursuant to this Part shall include all of the following:

- 4440
 4441 a) An acknowledgment that the requirements of the applicable report were satisfied;
 4442
 4443 b) A description of the location of the affected property by adequate legal
 4444 description or by reference to a plat showing its boundaries, or, for purposes of
 4445 Section 732.703(d) of this Part, other means sufficient to identify site location
 4446 with particularity;
 4447
 4448 c) A statement that the remediation objectives were determined in accordance with
 4449 35 Ill. Adm. Code 742, and the identification of any land use limitation, as
 4450 applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation
 4451 objectives;
 4452

- 4453 d) A statement that the Agency's issuance of the No Further Remediation Letter
 4454 signifies that, except for *off-site contamination related to the occurrence that has*
 4455 *not been remediated due to denial of access to the off-site property:*
 4456
- 4457 1) *All corrective action requirements under Title XVI of the Act and this Part*
 4458 *applicable to the occurrence have been complied with;*
 - 4459
 - 4460 2) *All corrective action concerning the remediation of the occurrence has*
 4461 *been completed; and*
 4462
 - 4463 3) *No further corrective action concerning the occurrence is necessary for*
 4464 *the protection of human health, safety and the environment [415 ILCS*
 4465 *5/57.10(c)];*
 4466
- 4467 e) The prohibition under Section 732.703(e) of this Part against the use of any site in
 4468 a manner inconsistent with any applicable land use limitation, without additional
 4469 appropriate remedial activities;
 4470
- 4471 f) A description of any approved preventive, engineering, and institutional controls
 4472 identified in the plan or report and notification that failure to manage the controls
 4473 in full compliance with the terms of the plan or report may result in voidance of
 4474 the No Further Remediation Letter;
 4475
- 4476 g) The recording obligations pursuant to Section 732.703 of this Part;
 4477
- 4478 h) The opportunity to request a change in the recorded land use pursuant to Section
 4479 732.703(e) of this Part;
 4480
- 4481 i) Notification that further information regarding the site can be obtained from the
 4482 Agency through a request under the Freedom of Information Act [5 ILCS 140];
 4483 and
 4484
- 4485 j) Any other provisions agreed to by the Agency and the owner or operator.
 4486

4487 **Section 732.703 Duty to Record a No Further Remediation Letter**
 4488

- 4489 a) Except as provided in subsections (c) and (d) of this Section, an owner or operator
 4490 receiving a No Further Remediation Letter from the Agency pursuant to this
 4491 Subpart G shall submit the letter, with a copy of any applicable institutional
 4492 controls (as set forth in 35 Ill. Adm. Code 742, Subpart J) proposed as part of a
 4493 corrective action completion report, to the office of the recorder or the registrar of
 4494 titles of the county in which the site is located within 45 days after receipt of the
 4495 letter. The letter and any attachments shall be filed in accordance with Illinois

4496 law so that they form a permanent part of the chain of title for the site. Upon the
4497 lapse of the 45-day period for recording, pursuant to Section 732.704(a)(5) of this
4498 Part, the Agency may void an unrecorded No Further Remediation Letter for
4499 failure to record it in a timely manner.
4500

4501 b) Except as provided in subsections (c) and (d) of this Section, a No Further
4502 Remediation Letter shall be perfected upon the date of the official recording of
4503 such letter. The owner or operator shall obtain and submit to the Agency, within
4504 30 days after the official recording date, a certified or otherwise accurate and
4505 official copy of the letter and any attachments as recorded. An unperfected No
4506 Further Remediation Letter is effective only as between the Agency and the
4507 owner or operator.
4508

4509 c) For sites located in a highway authority right-of-way, the following requirements
4510 shall apply:
4511

4512 1) In order for the No Further Remediation Letter to be perfected, the
4513 highway authority with jurisdiction over the right-of-way must enter into a
4514 Memorandum of Agreement (MOA) with the Agency. The MOA must
4515 include, but is not limited to:

4516 A) The name of the site, if any, and any highway authority or Agency
4517 identifiers (e.g., incident number, Illinois inventory identification
4518 number);
4519

4520 B) The address of the site (or other description sufficient to identify
4521 the location of the site with certainty);
4522

4523 C) A copy of the No Further Remediation Letter for each site subject
4524 to the MOA;
4525

4526 D) Procedures for tracking sites subject to the MOA so that all
4527 highway authority offices and personnel whose responsibilities
4528 (e.g., land acquisition, maintenance, construction, utility permits)
4529 may affect land use limitations will have notice of any
4530 environmental concerns and land use limitations applicable to a
4531 site;
4532

4533 E) Provisions addressing future conveyances (including title or any
4534 lesser form of interest) or jurisdictional transfers of the site to any
4535 other agency, private person or entity and the steps that will be
4536 taken to ensure the long-term integrity of any land use limitations
4537 including, but not limited to, the following:
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- 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,

- 4582 plat maps, or any other means that identify the site in question with
4583 particularity;
4584
- 4585 B) Implement periodic site inspection procedures that ensure
4586 oversight by the Federal Landholding Entities of any land use
4587 limitations or restrictions imposed pursuant to the No Further
4588 Remediation Letter;
4589
- 4590 C) Implement procedures for the Federal Landholding Entities to
4591 periodically advise the Agency of continued compliance with all
4592 maintenance and inspection requirements set forth in the LUC
4593 MOA;
4594
- 4595 D) Implement procedures for the Federal Landholding Entities to
4596 notify the Agency of any planned or emergency changes in land
4597 use that may adversely impact land use limitations or restrictions
4598 imposed pursuant to the No Further Remediation Letter;
4599
- 4600 E) Notify the Agency at least 60 days in advance of a conveyance by
4601 deed or fee simple title, by the Federal Landholding Entities, of the
4602 site or sites subject to the No Further Remediation Letter, to any
4603 entity that will not remain or become a Federal Landholding
4604 Entity, and provide the Agency with information about how the
4605 Federal Landholding Entities will ensure the No Further
4606 Remediation Letter is recorded on the chain of title upon transfer
4607 of the property; and
4608
- 4609 F) Attach to the LUC MOA a copy of the No Further Remediation
4610 Letter for each site subject to the LUC MOA.
4611
- 4612 2) To perfect a No Further Remediation letter containing no restriction(s) on
4613 future land use, the Federal Landholding Entity shall submit the letter to
4614 the Office of the Recorder or the Registrar of Titles of the county in which
4615 the site is located within 45 days after receipt of the letter. The letter shall
4616 be filed in accordance with Illinois law so it forms a permanent part of the
4617 chain of title. The Federal Landholding Entity shall obtain and submit to
4618 the Agency, within 30 days after recording, a copy of the letter
4619 demonstrating that the recording requirements have been satisfied.
4620
- 4621 3) Failure to comply with the requirements of this subsection (d) and the
4622 LUC MOA may result in voidance of the No Further Remediation Letter
4623 as well as any other penalties that may be available.
4624

4625 e) At no time shall any site for which a land use limitation has been imposed as a
 4626 result of corrective action under this Part be used in a manner inconsistent with
 4627 the land use limitation set forth in the No Further Remediation Letter. The land
 4628 use limitation specified in the No Further Remediation Letter may be revised only
 4629 by the perfecting of a subsequent No Further Remediation Letter, issued pursuant
 4630 to Title XVII of the Act and regulations thereunder, following further
 4631 investigation or remediation that demonstrates the attainment of objectives
 4632 appropriate for the new land use.
 4633

4634 **Section 732.704 Voidance of a No Further Remediation Letter**

4635
 4636 a) The No Further Remediation Letter shall be voidable if site activities are not
 4637 carried out in full compliance with the provisions of this Part, and 35 Ill. Adm.
 4638 Code 742 where applicable, or the remediation objectives upon which the
 4639 issuance of the No Further Remediation Letter was based. Specific acts or
 4640 omissions that may result in voidance of the No Further Remediation Letter
 4641 include, but shall not be limited to:
 4642

4643 1) Any violations of institutional controls or land use restrictions, if
 4644 applicable;
 4645

4646 2) The failure of the owner or operator or any subsequent transferee to
 4647 operate and maintain preventive, engineering and institutional controls;
 4648

4649 3) Obtaining the No Further Remediation Letter by fraud or
 4650 misrepresentation;
 4651

4652 4) Subsequent discovery of indicator contaminants related to the occurrence
 4653 upon which the No Further Remediation Letter was based which:
 4654

4655 A) were not identified as part of the investigative or remedial
 4656 activities upon which the issuance of the No Further Remediation
 4657 Letter was based;
 4658

4659 B) results in the following:
 4660

4661 i) the site no longer satisfying the criteria of a No Further
 4662 Action site classification;
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4664 ii) the site no longer satisfying the criteria of a Low Priority
 4665 site classification;
 4666

4667 iii) failing to meet the remediation objectives established for a

High Priority site; and

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- 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

4711 issued may appeal the Agency's decision to the Board in the manner provided for
4712 the review of permit decisions in Section 40 of the Act.
4713

- 4714 d) If the Board fails to take final action within 120 days, unless such time period is
4715 waived by the petitioner, the petition shall be deemed denied and the petitioner
4716 shall be entitled to an appellate court order pursuant to subsection (d) of Section
4717 41 of the Act. The Agency shall have the burden of proof in such action.
4718
- 4719 1) If the Agency's action is appealed, the action shall not become effective
4720 until the appeal process has been exhausted and a final decision is reached
4721 by the Board or courts.
4722
- 4723 A) Upon receiving a notice of appeal, the Agency shall file a Notice
4724 of lis pendens with the office of the recorder or the registrar of
4725 titles for the county in which the site is located. The notice shall
4726 be filed in accordance with Illinois law so that it becomes a part of
4727 the chain of title for the site.
4728
- 4729 B) If the Agency's action is not upheld on appeal, the Notice of lis
4730 pendens shall be removed in accordance with Illinois law within 45
4731 days after receipt of the final decision of the Board or the courts.
4732
- 4733 2) If the Agency's action is not appealed or is upheld on appeal, the Agency
4734 shall submit the Notice of Voidance to the office of the recorder or the
4735 registrar of titles for the county in which the site is located. The Notice
4736 shall be filed in accordance with Illinois law so that it forms a permanent
4737 part of the chain of title for the site.
4738

4739 **SUBPART H: MAXIMUM PAYMENT AMOUNTS**
4740

4741 **Section 732.800 Applicability**
4742

- 4743 a) **Methods for Determining Maximum Amounts.** This Subpart H provides three
4744 methods for determining the maximum amounts that can be paid from the Fund
4745 for eligible corrective action costs. All costs associated with conducting
4746 corrective action are grouped into the tasks set forth in Sections 732.810 through
4747 732.850 of this Part.
4748
- 4749 1) The first method for determining the maximum amount that can be paid
4750 for each task is to use the maximum amounts for each task set forth in
4751 those Sections, and in Section 732.870. In some cases the maximum
4752 amounts are specific dollar amounts, and in other cases the maximum
4753 amounts are determined on a site-specific basis.

- 4754
 4755 2) As an alternative to using the amounts set forth in Sections 732.810
 4756 through 732.850 of this Part, the second method for determining the
 4757 maximum amounts that can be paid for one or more tasks is bidding in
 4758 accordance with Section 732.855 of this Part. As stated in that Section,
 4759 when bidding is used, if the lowest bid for a particular task is less than the
 4760 amount set forth in Sections 732.810 through 732.850, the amount in
 4761 Sections 732.810 through 732.850 of this Part may be used instead of the
 4762 lowest bid.
 4763
 4764 3) The third method for determining maximum amounts that can be paid
 4765 from the Fund applies to unusual or extraordinary circumstances. The
 4766 maximum amounts for such circumstances can be determined in
 4767 accordance with Section 732.860 of this Part.
 4768
 4769 b) The costs listed under each task set forth in Sections 732.810 through 732.850 of
 4770 this Part identify only some of the costs associated with each task. They are not
 4771 intended as an exclusive list of all costs associated with each task for the purposes
 4772 of payment from the Fund.
 4773
 4774 c) This Subpart H sets forth only the methods that can be used to determine the
 4775 maximum amounts that can be paid from the Fund for eligible corrective action
 4776 costs. Whether a particular cost is eligible for payment must be determined in
 4777 accordance with Subpart F of this Part.
 4778

4779 **Section 732.810 UST Removal or Abandonment Costs**

4780
 4781 Payment for costs associated with UST removal or abandonment of each UST must not exceed
 4782 the amounts set forth in this Section. Such costs must include, but are not limited to, those
 4783 associated with the excavation, removal, disposal, and abandonment of UST systems.
 4784

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

4785
 4786 **Section 732.815 Free Product or Groundwater Removal and Disposal**

4787
 4788 Payment for costs associated with the removal and disposal of free product or groundwater must
 4789 not exceed the amounts set forth in this Section. Such costs must include, but are not limited to,
 4790 those associated with the removal, transportation, and disposal of free product or groundwater,

4791 and the design, construction, installation, operation, maintenance, and closure of free product or
 4792 groundwater removal systems.

4793
 4794 a) Payment for costs associated with each round of free product or groundwater
 4795 removal via hand bailing or a vacuum truck must not exceed a total of \$0.68 per
 4796 gallon or \$200, whichever is greater.

4797
 4798 b) Payment for costs associated with the removal of free product or groundwater via
 4799 a method other than hand bailing or vacuum truck must be determined on a time
 4800 and materials basis and must not exceed the amounts set forth in Section 732.850
 4801 of this Part. Such costs must include, but are not limited to, those associated with
 4802 the design, construction, installation, operation, maintenance, and closure of free
 4803 product and groundwater removal systems.

4804
 4805 **Section 732.820 Drilling, Well Installation, and Well Abandonment**

4806
 4807 Payment for costs associated with drilling, well installation, and well abandonment must not
 4808 exceed the amounts set forth in this Section.

4809
 4810 a) Payment for costs associated with each round of drilling must not exceed the
 4811 following amounts. Such costs must include, but not be limited to, those
 4812 associated with mobilization, drilling labor, decontamination, and drilling for the
 4813 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

4814
 4815
 4816 b) Payment for costs associated with the installation of monitoring wells, excluding
 4817 drilling, must not exceed the following amounts. Such costs must include, but are
 4818 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)

4820

4821 c) Payment for costs associated with the installation of recovery wells, excluding
 4822 drilling, must not exceed the following amounts. Such costs must include, but are
 4823 not limited to, those associated with well construction and development.
 4824

Well Diameter	Maximum Total Amount
4 or 6 inches	\$25/foot (well length)
8 inches or greater	\$41/foot (well length)

4825
 4826 d) Payment for costs associated with the abandonment of monitoring wells must not
 4827 exceed \$10 per foot of well length.
 4828

4829 **Section 732.825 Soil Removal and Disposal**
 4830

4831 Payment for costs associated with soil removal, transportation, and disposal must not exceed the
 4832 amounts set forth in this Section. Such costs must include, but are not limited to, those
 4833 associated with the removal, transportation, and disposal of contaminated soil exceeding the
 4834 applicable remediation objectives or visibly contaminated fill removed pursuant to Section
 4835 732.202(f) of this Part, and the purchase, transportation, and placement of material used to
 4836 backfill the resulting excavation.
 4837

4838 a) Payment for costs associated with the removal, transportation, and disposal of
 4839 contaminated soil exceeding the applicable remediation objectives, visibly
 4840 contaminated fill removed pursuant to Section 732.202(f) of this Part, and
 4841 concrete, asphalt, or paving overlying such contaminated soil or fill must not
 4842 exceed a total of \$57 per cubic yard.
 4843

4844 1) Except as provided in subsection (a)(2) of this Section, the volume of soil
 4845 removed and disposed of must be determined by the following equation,
 4846 using the dimensions of the resulting excavation: (Excavation Length x
 4847 Excavation Width x Excavation Depth) x 1.05. A conversion factor of 1.5
 4848 tons per cubic yard must be used to convert tons to cubic yards.
 4849

4850 2) The volume of soil removed from within four feet of the outside
 4851 dimension of the UST and disposed of pursuant to Section 732.202(f) of
 4852 this Part must be determined in accordance with Appendix C of this Part.
 4853

4854 b) Payment for costs associated with the purchase, transportation, and placement of
 4855 material used to backfill the excavation resulting from the removal and disposal of
 4856 soil must not exceed a total of \$20 per cubic yard.
 4857

4858 1) Except as provided in subsection (b)(2) of this Section, the volume of
 4859 backfill material must be determined by the following equation using the

4860 dimensions of the backfilled excavation: (Excavation Length x
 4861 Excavation Width x Excavation Depth) x 1.05. A conversion factor of 1.5
 4862 tons per cubic yard must be used to convert tons to cubic yards.
 4863

4864 2) The volume of backfill material used to replace soil removed from within
 4865 four feet of the outside dimension of the UST and disposed of pursuant to
 4866 Section 732.202(f) of this Part must be determined in accordance with
 4867 Appendix C of this Part.
 4868

4869 c) Payment for costs associated with the removal and subsequent return of soil that
 4870 does not exceed the applicable remediation objectives but whose removal is
 4871 required in order to conduct corrective action must not exceed a total of \$6.50 per
 4872 cubic yard. The volume of soil removed and returned must be determined by the
 4873 following equation using the dimensions of the excavation resulting from the
 4874 removal of the soil: (Excavation Length x Excavation Width x Excavation
 4875 Depth). A conversion factor of 1.5 tons per cubic yard must be used to convert
 4876 tons to cubic yards.
 4877

4878 **Section 732.830 Drum Disposal**
 4879

4880 Payment for costs associated with the purchase, transportation, and disposal of 55-gallon drums
 4881 containing waste generated as a result of corrective action (e.g., boring cuttings, water bailed for
 4882 well development or sampling, hand-bailed free product) must not exceed the following amounts
 4883 or a total of \$500, whichever is greater.
 4884

Drum Contents	Maximum Total Amount per Drum
Solid waste	\$250
Liquid waste	\$150

4885
 4886 **Section 732.835 Sample Handling and Analysis**
 4887

4888 Payment for costs associated with sample handling and analysis must not exceed the amounts set
 4889 forth in Appendix D of this Part. Such costs must include, but are not limited to, those
 4890 associated with the transportation, delivery, preparation, and analysis of samples, and the
 4891 reporting of sample results. For laboratory analyses not included in this Section, the Agency
 4892 may determine reasonable maximum payment amounts on a site-specific basis.
 4893

4894 **Section 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and**
 4895 **Reassembly of Above Grade Structures**
 4896

4897 a) Payment for costs associated with concrete, asphalt, and paving installed as an
 4898 engineered barrier, other than replacement concrete, asphalt, and paving, must not

4899 exceed the following amounts. Costs associated with the replacement of concrete,
 4900 asphalt, and paving used as an engineered barrier are subject to the maximum
 4901 amounts set forth in subsection (b) of this Section instead of this subsection (a).
 4902

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

4903
 4904 b) Payment for costs associated with the replacement of concrete, asphalt, and
 4905 paving must not exceed the following amounts:
 4906

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

4907
 4908 For depths other than those listed in this subsection, the Agency must determine
 4909 reasonable maximum payment amounts on a site-specific basis.
 4910

4911 c) Payment for costs associated with the destruction or the dismantling and
 4912 reassembly of above grade structures must not exceed the time and material
 4913 amounts set forth in Section 732.850 of this Part. The total cost for the
 4914 destruction or the dismantling and reassembly of above grade structures must not
 4915 exceed \$10,000 per site.
 4916

4917 **Section 732.845 Professional Consulting Services**
 4918

4919 Payment for costs associated with professional consulting will be reimbursed on a time and
4920 materials basis pursuant to Section 732.850. Such costs must include, but are not limited to,
4921 those associated with project planning and oversight; field work; field oversight; travel; per
4922 diem; mileage; transportation; vehicle charges; lodging; meals; and the preparation, review,
4923 certification, and submission of all plans, budget plans, reports, applications for payment, and
4924 other documentation.

4925

4926 **Section 732.850 Payment on Time and Materials Basis**

4927

4928 This Section sets forth the maximum amounts that may be paid when payment is allowed on a
4929 time and materials basis.

4930

4931 a) Payment for costs associated with activities that have a maximum payment
4932 amount set forth in other Sections of this Subpart H (e.g, sample handling and
4933 analysis, drilling, well installation and abandonment, or drum disposal) must not
4934 exceed the amounts set forth in those Sections, unless payment is made pursuant
4935 to Section 732.860 of this Part.

4936

4937 b) Maximum payment amounts for costs associated with activities that do not have a
4938 maximum payment amount set forth in other Sections of this Subpart H must be
4939 determined by the Agency on a site-specific basis, provided, however, that
4940 personnel costs must not exceed the amounts set forth in Appendix E of this Part.
4941 Personnel costs must be based upon the work being performed, regardless of the
4942 title of the person performing the work. Owners and operators seeking payment
4943 must demonstrate to the Agency that the amounts sought are reasonable.

4944

4945 BOARD NOTE: Alternative technology costs in excess of the costs of conventional technology
4946 are ineligible for payment from the Fund. See Sections 732.407(b) and 732.606(bb) of this Part.

4947

4948 **Section 732.855 Bidding**

4949

4950 As an alternative to the maximum payment amounts set forth in this Subpart H, one or more
4951 maximum payment amounts may be determined via bidding in accordance with this Section.
4952 Each bid must cover all costs included in the maximum payment amount that the bid is
4953 replacing.

4954

4955 a) A minimum of three written bids must be obtained. The bids must be based upon
4956 the same scope of work and must remain valid for a period of time that will allow
4957 the owner or operator to accept them upon the Agency's approval of the
4958 associated budget. Bids must be obtained only from persons qualified and able to
4959 perform the work being bid. Bids must not be obtained from persons in which the
4960 owner or operator, or the owner's or operator's primary contractor, has a financial
4961 interest.

- 4962
 4963 b) The bids must be summarized on forms prescribed and provided by the Agency.
 4964 The bid summary form, along with copies of the bid requests and the bids
 4965 obtained, must be submitted to the Agency in the associated budget. If more than
 4966 the minimum three bids are obtained, summaries and copies of all bids must be
 4967 submitted to the Agency.
 4968
 4969 c) The maximum payment amount for the work bid must be the amount of the
 4970 lowest bid, unless the lowest bid is less than the maximum payment amount set
 4971 forth in this Subpart H in which case the maximum payment amount set forth in
 4972 this Subpart H must be allowed. The owner or operator is not required to use the
 4973 lowest bidder to perform the work, but instead may use another person qualified
 4974 and able to perform the work, including, but not limited to, a person in which the
 4975 owner or operator, or the owner's or operator's primary consultant, has a direct or
 4976 indirect financial interest. However, regardless of who performs the work, the
 4977 maximum payment amount will remain the amount of the lowest bid.
 4978

4979 **Section 732.860 Unusual or Extraordinary Circumstances**
 4980

4981 If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur
 4982 eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency
 4983 may determine maximum payment amounts for the costs on a site-specific basis. Owners and
 4984 operators seeking to have the Agency determine maximum payment amounts pursuant to this
 4985 Section must demonstrate to the Agency that the costs for which they are seeking a
 4986 determination are eligible for payment from the Fund, exceed the maximum payment amounts
 4987 set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are
 4988 unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part.
 4989 Examples of unusual or extraordinary circumstances may include, but are not limited to, an
 4990 inability to obtain a minimum of three bids pursuant to Section 732.855 of this Part due to a
 4991 limited number of persons providing the service needed.
 4992

4993 **Section 732.865 Handling Charges**
 4994

4995 Payment of handling charges must not exceed the amounts set forth in Section 732.607 of this
 4996 Part.
 4997

4998 **Section 732.870 Increase in Maximum Payment Amounts**
 4999

5000 The maximum payment amounts set forth in this Subpart H must be adjusted annually by an
 5001 inflation factor determined by the annual Implicit Price Deflator for Gross National Product as
 5002 published by the U.S. Department of Commerce in its Survey of Current Business.
 5003

- 5004 a) The inflation factor must be calculated each year by dividing the latest published
5005 annual Implicit Price Deflator for Gross National Product by the annual Implicit
5006 Price Deflator for Gross National Product for the previous year. The inflation
5007 factor must be rounded to the nearest 1/100th. In no case must the inflation factor
5008 be more than five percent in a single year.
5009
- 5010 b) Adjusted maximum payment amounts must become effective on July 1 of each
5011 year and must remain in effect through June 30 of the following year. The first
5012 adjustment must be made on July 1, 2006 by multiplying the maximum payment
5013 amounts set forth in this Subpart H by the applicable inflation factor. Subsequent
5014 adjustments must be made by multiplying the latest adjusted maximum payment
5015 amounts by the latest inflation factor.
5016
- 5017 c) The Agency must post the inflation factors on its website no later than the date
5018 they become effective. The inflation factors must remain posted on the website in
5019 subsequent years to aid in the calculation of adjusted maximum payment amounts.
5020
- 5021 d) Adjusted maximum payment amounts must be applied as follows:
5022
- 5023 1) For costs approved by the Agency in writing prior to the date the costs are
5024 incurred, the applicable maximum payment amounts must be the amounts
5025 in effect on the date the Agency received the budget in which the costs
5026 were proposed. Once the Agency approves a cost, the applicable
5027 maximum payment amount for the cost must not be increased (e.g., by
5028 proposing the cost in a subsequent budget).
5029
- 5030 2) For costs not approved by the Agency in writing prior to the date the costs
5031 are incurred, including but not limited to early action costs, the applicable
5032 maximum payment amounts must be the amounts in effect on the date the
5033 costs were incurred.
5034
- 5035 3) Owners and operators must have the burden of requesting the appropriate
5036 adjusted maximum payment amounts in budgets and applications for
5037 payment.
5038

5039 **Section 732.875 Agency Review of Payment Amounts**
5040

5041 At least every three years, the Agency must review the amounts set forth in this Subpart H and
5042 submit a report to the Board on whether the amounts are consistent with the prevailing market
5043 rates. The report must identify amounts that are not consistent with the prevailing market rates
5044 and suggest changes needed to make the amounts consistent with the prevailing market rates.
5045 The Board must publish notice of receipt of the report in the Environmental Register and on the
5046 Board's web page.

5047 **Section 732.APPENDIX A Indicator Contaminants**
 5048

TANK CONTENTS	INDICATOR CONTAMINANTS
GASOLINE	Benzene
Leaded ¹ , unleaded, premium, and gasohol	Ethylbenzene
	Toluene
	Xylene
	Methyl tertiary butyl ether (MTBE)
5049	
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	

5050 USED OIL Screening sample⁵

5051
 5052

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)

5054 **Section 732.APPENDIX B Additional Parameters**
 5055

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)

5057 **Section 732.APPENDIX C Backfill Volumes**
 5058

Volume of Tank in Gallons	Maximum amount of backfill material to be removed:	Maximum amount of backfill material to be replaced:
	<u>Cubic yards</u>	<u>Cubic yards</u>
< 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

5059
 5060 A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

5061 **Section 732.APPENDIX D Sample Handling and Analysis**
 5062

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 Appendix B 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

5063

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

5064

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

5065

Other

En Core® Sampler, purge-and-trap sampler, or equivalent sampling device	\$10
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JCAR350732-1116191r01

Sample Shipping (*maximum total amount for shipping all
samples collected in a calendar day)

\$50*

5066

5067 **Section 732.APPENDIX E Personnel Titles and Rates**
 5068

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

- 5070 1 Equivalent work-related or college level education with significant coursework in the
5071 physical, life, or environmental sciences can be substituted for all or part of the specified
5072 experience requirements.
- 5073 2 Equivalent work-related or college level education with significant coursework in accounting
5074 or business can be substituted for all or part of the specified experience requirements.
- 5075 3 Equivalent work-related or college level education with significant coursework in
5076 administrative or secretarial services can be substituted for all or part of the specified
5077 experience requirements.
- 5078 4 Equivalent work-related or college level education with significant coursework in drafting or
5079 computer aided design ("CAD") can be substituted for all or part of the specified experience
5080 requirements.