

ILLINOIS POLLUTION CONTROL BOARD
September 15, 1994

IN THE MATTER OF:)
)
REGULATION OF PETROLEUM)
LEAKING UNDERGROUND STORAGE TANKS) R94-2(A)
(35 ILL. ADM. CODE 732)) (Rulemaking)
(Pursuant to P.A. 88-496))

Adopted Rule. Final Order.

OPINION AND ORDER (by C.A. Manning, M. McFawn, and J. Theodore Meyer):

This matter is before the Board for final adoption of Illinois' petroleum leaking underground storage tank regulations. After consultation with the Underground Storage Tank Advisory Committee, the Illinois Environmental Protection Agency filed these rules on March 15, 1994 to satisfy its statutory directive to propose within six months, rules implementing Illinois' new LUST program adopted on September 13, 1994 in P.A.88-496. In turn, the legislature gave the Board an equally rigorous six month adoption deadline to complete the rulemaking and promulgate regulations consistent with the new LUST Law. In order to meet our statutory deadline of final adoption by today, September 15, 1994, on March 17, 1994, we send these rules for first notice. The rules were published in the *Illinois Register* on April 8, 1994. After two pre-hearing conferences and five days of hearing, on August 11, 1994, we issued the second notice opinion and order for consideration by the Joint Committee on Administrative Rules (JCAR) showing substantive and editorial changes from first notice. On September 13, 1994, JCAR considered these proposed rules and issued a certificate of no objection. Today, the Board sends these rules to the Secretary of State for final notice publication in the *Illinois Register*.¹

We note that these final regulations have been amended as a result of JCAR's review; however, the majority of these changes are merely editorial corrections and are nonsubstantive. These editorial changes are highlighted in the order. We have also made two minor language amendments which are shown below; neither are of a substantive nature so as to change the intent or content of the regulations as proposed at second notice. These language additions are:

¹The Board wishes to extend its appreciation to Board Attorney Musette H. Vogel for serving as hearing officer. The Board also wishes to acknowledge Board Attorneys Elizabeth Schroer Harvey, Kevin G. Desharnais, Charles M. Feinen, Deborah L. Frank, science and technical staff, Anand Rao and Hiten Soni, law clerk Suzanne Yokley and staff members Don Brown, Jennifer Moore, Kemelyau Pittman and Karen Lukow, for their efforts and contributions to this rulemaking.

Section 732.404 "High Priority" Site

* * *

- (1) Provide that, after complete performance of the corrective action plan, applicable indicator contaminant objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation. If an adjoining property owner will not allow the owner/operator access to his or her property so as to ascertain information sufficient to satisfy this requirement, or if the owner cannot be located, adequate documentation of the owner/operator's efforts to gain access to the property shall satisfy this subsection;

Section 732.502 Completeness Review

- (b)(3) All time limits for Agency final action on a plan or report shall be calculated from the date the Agency receives a complete plan or report. Receipt of an amended plan or report, after a notice of incompleteness, shall restart all time limits for Agency final action on that plan or report.

Accordingly, we find that the Agency's regulatory proposal, as amended by the Board after holding public hearings and considering public comment, and after review by JCAR, is supported by the record, and comports with our statutory rulemaking requirements of Title VII of the Environmental Protection Act. We therefore adopt this final rule. For a full discussion of the Board's considerations and determinations regarding this rule, please refer to the Board's second notice opinion. (In the Matter of : Regulation of Petroleum Leaking Underground Storage Tanks, 35 Ill. Adm. Code 732, R94-2(A), August 11, 1994.)

ORDER

The Board directs the Clerk to cause the filing of the following proposal for final notice with the Administrative Code Division of the Secretary of State's office and to cause the publication in the *Illinois Register*:

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

PART 732
PETROLEUM UNDERGROUND STORAGE TANKS

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Illustration 3C	Equation For Calculating Groundwater Objective the Source
Illustration 4D	Equation For Calculating Soil Objectives at the Source

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; and 57.14] as added by (see P.A. 88-496, effective September 13, 1993).

SOURCE: Adopted in R94-___ at ___ Ill. Reg. _____, effective _____, 19__.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL

Section 732.100 Applicability

- a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release has been confirmed and required to be reported to Illinois Emergency Management Agency (IEMA) on or after the effective date of this Part September 23, 1994 in accordance with regulations adopted by the Office of State Fire Marshal (OSFM). It 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 Environmental Protection Act (Act) [415 ILCS 5/57.5]. Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to IEMA on or before September 12, 1993, may elect to proceed in accordance with this Part pursuant to Section 732.101.
- b) Upon the receipt of a corrective action order from the OSFM pursuant to Section 57.5(g) of the Act, 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.

Section 732.101 Election to Proceed under Part 732

- a) 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, may 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. Corrective action shall then follow the requirements of this Part. The election shall be effective upon receipt by the Agency and shall not be withdrawn once made.
- b) 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 which serve other than a farm or residential unit may 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. Corrective action shall then follow the requirements of this Part. The election shall be effective upon receipt by the Agency and shall not be withdrawn once made.
- c) If the owner or operator elects 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 or reimbursable in the same manner as was allowable under the then existing law. Corrective action costs incurred after the notification of election shall be payable or reimbursable in accordance with Subparts E and F of this Part.

Section 732.102 Severability

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

Section 732.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition 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 5/1-57.17).

"Act" means the Environmental Protection Act (415 ILCS 5/1 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Alternative ~~t~~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. (Section 57.2 of the Act)

"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. (Section 57.2 of the Act)

"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. (Section 57.2 of the Act)

"Confirmed ~~e~~Exceedence" means laboratory verification of an exceedence of the applicable groundwater quality standards or objectives.

"Confirmed ~~r~~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 ~~t~~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. (Section 57.2 of the Act).

"FILL MATERIAL" MEANS NON-NATIVE OR DISTURBED MATERIALS USED TO BED AND BACKFILL AROUND AN UNDERGROUND STORAGE TANK. (Section 57.2 of the Act)

"Free Product" means petroleum that is present as a non-aqueous phase liquid (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. (Section 57.2 of the Act)

"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. (Section 3.64 of the Act)

"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. (Section 57.2 of the Act)

"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. (Section 57.2 of the Act)

"LICENSED PROFESSIONAL ENGINEER" MEANS A PERSON, CORPORATION

OR PARTNERSHIP LICENSED UNDER THE LAWS OF THE STATE OF ILLINOIS TO PRACTICE PROFESSIONAL ENGINEERING. (Section 57.2 of the Act)

"Line Item Estimate" means an estimate of the costs associated with each line item (including, but not necessarily limited to, personnel, equipment, travel, etc.) which an owner or operator anticipates will be incurred for the development, implementation and completion of a plan or report.

"Man-made pPathway" 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 wWell" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural pPathway" 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.

"OCCURRENCE" MEANS ANY RELEASE FROM AN UNDERGROUND STORAGE TANK, INCLUDING ANY ADDITIONAL RELEASE FROM THAT UNDERGROUND STORAGE TANK AT THE SITE IDENTIFIED IN THE COURSE OF PERFORMING CORRECTIVE ACTION IN RESPONSE TO THE INITIAL RELEASE. (Section 57.2 of the Act)

"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. (42 U.S.C. § 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. (42 U.S.C. § 6991)

"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 U.S.C. § 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). (42 U.S.C. § 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 PUBLICATIONS. (Section 57.2 of the Act)

"POTABLE" MEANS GENERALLY FIT FOR HUMAN CONSUMPTION IN ACCORDANCE WITH ACCEPTED WATER SUPPLY PRINCIPLES AND PRACTICES. (Section 3.65 of the Act)

"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. (Derived from Section 57.2 of the Act)

"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. (Section 3.67 of the Act)

"Regulated ~~s~~Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. § 9601(14)] (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act [42 U.S.C. §§ 6921 et seq.]), and Petroleum. (42 U.S.C. § 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. (Section 57.2 of the Act)

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

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

"SETBACK ZONE" MEANS A GEOGRAPHIC AREA, DESIGNATED PURSUANT TO THE ACT or regulations, 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. (Section 3.61 of the Act)

"SITE" MEANS ANY SINGLE LOCATION, PLACE, TRACT OF LAND OR PARCEL OF PROPERTY INCLUDING CONTIGUOUS PROPERTY NOT SEPARATED BY A PUBLIC RIGHT-OF-WAY. (Section 57.2 of the Act)

"Surface ~~b~~Body of ~~w~~Water" or "~~s~~Surface ~~w~~Water ~~b~~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 ~~f~~Field" means all underground storage tanks at a site that reside within a circle with a 100 foot radius.

"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 per centum 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 U.S.C. App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 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 which 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 upon or above the surface of the floor. (Derived from 42 U.S.C. § 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. (Section 57.2 of the Act)

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

Section 732.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

ASTM. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103 (215) 299-5400

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

ASTM D 1140-54, Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 um) Sieve, approved September 15, 1954 (reapproved 1990).

ASTM D 2216-90, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, approved November 30, 1990.

ASTM D 4643-87, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved February 2, 1987.

ASTM D 2487-90, Standard Test Method for Classification of Soils for Engineering Purposes, approved June 22, 1990.

ASTM D 2488-90, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved June 29, 1990.

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.

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) 487-4600

"Methods for Chemical Analysis of Water and Wastes," EPA Publication No. EPA-600/4-79-020 (March 1983), Doc. No. PB 84-128677.

"Methods for the Determination of Organic Compounds in Drinking Water," EPA, EMSL, EPA-600/4-88/039 (Dec. 1988), Doc. No. PB 89-220461.

"Practical Guide for Ground-Water Sampling," EPA Publication No. EPA-600/2-85/104 (September 1985), Doc. No. PB 86-137304.

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846 (Third Edition, 1986), as amended by Revision I, Final Update I, July 1992), Doc. No. PB 89-148076.

USGS. United States Geological Survey, 1961 Stout Street, Denver, CO 80294 (303) 844-4169

"Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," Book I, Chapter D2 (1981).

- b) CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (202) 783-3238

40 CFR 261, Appendix II (1992).

40 CFR 761.120 (1993).

- c) 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)

SUBPART B: EARLY ACTION

Section 732.200 General

OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS SHALL, IN RESPONSE TO ALL CONFIRMED RELEASES of petroleum, COMPLY WITH ALL APPLICABLE STATUTORY AND REGULATORY REPORTING AND RESPONSE REQUIREMENTS. (Section 57.6(a) of the Act) No work plan shall be required for conducting early action activities.

Section 732.201 Agency Authority to Initiate

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

Section 732.202 Early Action

- a) Upon confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, shall perform the following initial response actions within 24 hours of 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) Upon confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, 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 belowground 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 below.
- c) Within 20 days after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, owners or operators shall submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) above and any resulting information

or data. The report shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.

- d) Owners or operators 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 ~~732.202(a)~~ and (b) above. This information must 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 ~~732.202~~ (b)(5) of this section;
 - 4) Results of the free product investigations required at subsection 732.202(b)(6), to be used by owners or operators to determine whether free product must be recovered under Section 732.203.
- e) Within 45 days after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, owners or operators shall submit to the Agency the information collected in compliance with subsection (d) above in a manner that demonstrates its applicability and technical adequacy. The information shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.
- 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 REPAIR OR ABANDON THE UNDERGROUND STORAGE TANK IN PLACE, IN ACCORDANCE WITH THE REGULATIONS PROMULGATED BY THE OFFICE OF THE STATE FIRE MARSHAL. THE OWNER MAY REMOVE VISIBLY CONTAMINATED FILL MATERIAL AND ANY GROUNDWATER IN THE EXCAVATION WHICH EXHIBITS A SHEEN. (Section 57.6(b) of the Act)**

BOARD NOTE: Section 57.7(a)(1)(B) of the Act limits payment or reimbursement from the Fund for removal of contaminated fill material during early action activities. See Subpart F of this Part.

Section 732.203 Free Product Removal

At sites where investigations under Section 732.202(b)(6) above indicate the presence of free product, owners or operators shall remove free product to the maximum extent practicable 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:

- a) 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;
- b) Use abatement of free product migration as a minimum objective for the design of the free product removal system;
- c) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and
- d) Within 45 days after the confirmation of a release of petroleum from an UST in accordance with regulations promulgated by the OSFM, prepare and submit to the Agency a free product removal report on forms prescribed by the Agency or in a similar format containing the same information. The report shall, at a minimum, provide the following:
 - 1) The name of the persons responsible for implementing the free product removal measures;
 - 2) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;
 - 3) The type of free product recovery system used;
 - 4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
 - 5) The type of treatment applied to, and the effluent quality expected from, any discharge;
 - 6) The steps that have been or are being taken to obtain necessary permits for any discharge; and
 - 7) The disposition of the recovered free product.

Section 732.204 Application for Payment

Owners or operators intending to seek payment or reimbursement for early action activities are not required to submit a corresponding budget plan to the Agency prior to the application for payment. 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. In the alternative, the owner or operator may submit line item estimates of the activities and costs as part of a site classification budget plan submitted pursuant to Section 732.305 for prior review and approval in accordance with Subpart E of this Part. If the alternative of submitting a line item estimate of the activities and costs is selected, a subsequent application for payment satisfying the requirements of Subpart F will be required before payment can be approved and such application for payment must be submitted with an application for payment for site classification activities.

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section 732.300 General

- a) Except as provided in subsection (b) below, 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) Owners or operators subject to this Part 732 may proceed without conducting site classification activities pursuant to this Subpart C under the following circumstances:
 - 1) If the owner or operator chooses to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part. Upon completion of the remediation, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels; or
 - 2) If, upon completion of early action requirements pursuant to Subpart B of this Part, the owner or operator can demonstrate compliance with the remediation objectives required in Section 732.408 of this Part. Upon completion of the early action requirements, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels.
- c) For corrective action completion reports submitted pursuant to subsection (b) above, the Agency shall issue a "No Further Remediation" letter upon

approval of the report by the Agency or by operation of law in accordance with Subpart E.

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

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

- a) Sites shall be classified as "No Further Action" if all of the following criteria are satisfied:
 - 1) The physical soil classification procedure 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 completing 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 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;

- 4) There is no designated Class III special resource groundwater within 200 feet of the site; 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) No groundwater investigation pursuant to Section 732.307(j) shall be required to demonstrate that a site meets the criteria of a "No Further Action" site.

Section 732.303 "Low Priority" Sites

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 groundwater quality standard or groundwater objective for any applicable indicator contaminant has 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 site; 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

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 groundwater quality standard or groundwater objective for any applicable indicator contaminant has been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and
 - 2) "Berg Circular"
 - i) 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
 - ii) 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 site; 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) 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 Sections 732.302, 732.303 or 732.304 of this Part. Site classification plans shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.
- b) In addition to the plan required in subsection (a) above and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency:
 - 1) An application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part, except as provided in subsection (b)(2) below; and
 - 2) A site classification budget plan, which shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and a line item estimate of all costs associated with the development, implementation and completion of the site evaluation activities required in Section 732.307. In accordance with Section 732.204 of this Part, the owner or operator may submit a site classification budget plan that includes a line item estimate of the activities and costs of early action for review and approval prior to the

submittal of an application for payment. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part. Site classification budget plans shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.

- c) The Agency shall have the authority to review and approve, reject or require modification of any plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.
- d) Notwithstanding subsections (a) and (b) above, an owner or operator may proceed to conduct site evaluation activities in accordance with this Subpart C prior to the submittal or approval or an otherwise required site classification plan (including physical soil classification and groundwater investigation plans and associated budget plans). However, any such 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 or reimbursement for any related costs or the issuance of a "No Further Remediation" letter.
- 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 plan in accordance with the procedures contained in Subpart E of this Part.

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

Section 732.306 Deferred Site Classification; Priority List

- a) **NOTWITHSTANDING ANY OTHER PROVISION OR RULE OF LAW WITH THE EXCEPTION OF THE early action requirements of Subpart B of this Part and the investigation of migratory pathways as required by Section 732.307(g), THE OWNER OR OPERATOR WHO HAS SUBMITTED ANY budget PLAN PURSUANT TO this Part AND WHO IS ELIGIBLE FOR PAYMENT FROM THE UNDERGROUND STORAGE TANK FUND SHALL BE ELIGIBLE TO ELECT TO COMMENCE site classification UPON THE AVAILABILITY OF FUNDS. SUCH ELECTION SHALL BE MADE IN WRITING TO THE AGENCY WITHIN 30 DAYS OF RECEIPT**

OF AGENCY APPROVAL OF A budget PLAN. At that time, or up until 60 days thereafter, the owner or operator shall also provide the results of the investigation of the migratory pathways so that the Agency can make its decision in accordance with subsection (b) of this subsection. THE AGENCY SHALL PROVIDE NOTICE TO THE OWNER OR OPERATOR AT SUCH TIME AS IT APPROVES THE budget PLAN WHETHER SUFFICIENT RESOURCES ARE AVAILABLE IN ORDER TO IMMEDIATELY COMMENCE THE APPROVED MEASURES. (Section 57.8(b) of the Act)

- 1) Approvals of budget plans shall be pursuant to Agency review or by operation of law in accordance with Subpart E of this Part.
- 2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment in an amount equal to the total of the approved budget plans and shall provide notice to owners or operators of the availability of funds in accordance with Section 732.503(h). Funds shall not be deemed available for owners or operators electing to defer site classification so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.
- 3) Upon receiving written notification that an owner or operator elects to defer site classification until funds are available, the Agency shall place the site on a priority list for notification of availability of sufficient funds. Sites shall enter the priority list based solely on the date the Agency receives the written notification of deferral, with the earliest dates having the highest priority. 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 registered or certified mail.
- 4) 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.
- 5) 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.
- 6) The priority list for 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) SHOULD THE AGENCY OR OWNER OR OPERATOR DETERMINE A THREAT TO HUMAN HEALTH AND/OR THE ENVIRONMENT REQUIRES IMMEDIATE ACTION, INCLUDING THE EXISTENCE OF PETROLEUM OR VAPORS WHICH 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 ELECTION TO COMMENCE site classification UPON THE AVAILABILITY OF FUNDS SHALL NOT BE AVAILABLE. THE AGENCY SHALL NOTIFY THE OWNER OR OPERATOR BY CERTIFIED MAIL THAT A SITUATION EXISTS THAT WOULD PRECLUDE THE OWNER OR OPERATOR FROM COMMENCING site classification UPON THE AVAILABILITY OF FUNDS. SUCH ACTION BY THE AGENCY SHALL NOT BE SUBJECT TO APPEAL. (Section 57.8(b) of the Act)
- c) An owner or operator may withdraw the election to commence site classification activities upon the availability of funds at any time. The Agency shall be notified 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

- a) Except as provided in Section 732.300(b), 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, where appropriate, persons working under the direction of a Licensed Professional Engineer) 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 as required by the supervising Licensed Professional Engineer.
- b) As a part of each site evaluation, the Licensed Professional Engineer shall conduct a physical soil classification in accordance with the procedures at subsections (c) or (d) below. Except as provided in subsection (e) below, 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 shall, at a minimum, complete the requirements at subsections (f) through (j) below before

classifying a site as "High Priority" or "Low Priority" and subsection (f) through (i) below 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) below. If bedrock is encountered or auger refusal occurs, the Licensed Professional Engineer 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 Section 732.307(c)(1)(A). 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 of water bearing units during drilling.
- H) The owner or operator may utilize techniques other than those specified in this subsection (c)(1) for soil classification provided that:
 - 1) The techniques provide equivalent, or superior, information as required by this Section;
 - 2) The techniques have been successfully utilized in applications similar to the proposed application;
 - 3) Methods for quality control can be implemented; and
 - 4) 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 stratigraphic unit encountered at the site:

- A) A soil particle analysis using the test methods specified in ASTM (American Society for Testing and Materials) Standards D 422-63 or D 1140-54, "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 um) Sieve," incorporated by reference in Section 732.104 of this Part;
- B) A soil moisture content analysis using the test methods specified in ASTM Standards D 2216-90 or D 4643-87, "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;

- C) A soil classification using the test methods specified in ASTM Standards D 2487-90 or D 2488-90, "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; and
 - D) Unconfined compression strength shall be determined in tons per square foot by using a hand penetrometer.
- 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 (American Society for Testing and Materials) 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;
 - ii) Granular soils having estimated hydraulic conductivity of greater than 1×10^3 cm/s will fail the hydraulic conductivity requirements within the Berg Circular for "No Further Action" geology, and therefore, no tests need to be run on the soils.

- iii) A hydraulic conductivity analysis of bedrock using the test method specified in ASTM (American Society for Testing and Materials) Standard D 4525-90, "Standard Test Method for Permeability of Rocks by Flowing Air," incorporated by reference in Section 732.104 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 at least the first 15 feet of native material below the invert elevation of the UST.
 - B) This boring shall meet the requirements of subsections (c)(1)(C) through (c)(1)(G) above.
 - 2) Soil Properties
- The following tests shall be performed on a representative sample of each stratigraphic unit encountered in the native soil boring:
- A) A soil particle analysis satisfying the requirements of subsection (c)(2)(A) above; and
 - B) 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 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; or

- C) Hydraulic conductivity shall be determined in accordance with subsection (c)(3) above.
- 3) The results of the boring(s) and tests described in subsections (d)(1) and (d)(2) above shall be used to demonstrate whether the first 15 feet of native material below the invert elevation of the 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 (American Society for Testing and Materials) Standard D 22487-90, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference at Section 732.104 of this Part);
 - B) Does not contain sandstone that is 10 feet or more in thickness, or fractured carbonate that is 15 feet or more in thickness; and
 - C) Is not capable of:
 - i) 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; or
 - ii) Hydraulic conductivity of 1×10^{-4} cm/sec or greater.
- e) If, during the completion of the requirements of subsections (c) or (d) above, a Licensed Professional Engineer determines that the site geology is not consistent with areas 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 subsections (c) or (d) may be suspended, provided that the soil investigation has been sufficient to satisfy the requirements of subsection (g) below. If activities are suspended under this subsection (e), the Licensed Professional Engineer shall complete the requirements of subsections (f) through (j) below in order to determine whether the site is "High Priority" or "Low Priority." The site conditions upon which the suspension of the requirements of subsections (c) or (d) above is based shall be documented in the site classification completion report.
- f) Survey of Water Supply Wells

- 1) The Licensed Professional Engineer shall conduct a survey of water supply wells for the purpose of identifying and locating all community water supply wells within 2500 feet of the UST system and all potable water supply wells within 200 feet of the UST system. The survey shall include, but not be limited to, contacting the Illinois State Geological Survey and the Illinois State Water Survey. The local unit of government with authority over the site shall be contacted to determine if there is a local ordinance or policy regulating the usage of potable water supply wells.
 - 2) The Licensed Professional Engineer shall provide a map to scale showing the locations of all community water supply wells and all potable water supply wells identified pursuant to subsection (f)(1) above. Radii of 200, 400 and 1000 feet from the UST system shall be marked on the map.
 - 3) The Licensed Professional Engineer shall provide a table indicating the setback zone for each community water supply well and potable water supply well identified pursuant to subsection (f)(1) above and the distance from the UST system to the well. The locations of each well shall be identified on the map by numbers corresponding to the information provided in the table.
 - 4) The Licensed Professional Engineer shall determine if the UST system is within the regulated recharge area of any community water supply well or potable water supply well. The sources consulted in making this determination shall be described in the site classification completion report.
- g) Investigation of Migration Pathways
- 1) The Licensed Professional Engineer 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 or not 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) The Licensed Professional Engineer 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, 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.
- 3) Unless the Agency's review reveals objective evidence to the contrary, the Licensed Professional Engineer 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 shall verify whether Class III groundwater exists within 200 feet of the UST system.
- i) The Licensed Professional Engineer 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 any site that fails to satisfy the requirements for a "No Further Action" site classification, the Licensed Professional Engineer shall perform a groundwater investigation in accordance with this subsection (j) to determine whether an applicable indicator contaminant groundwater quality standard has been exceeded at the property boundary or 200 feet from the excavation, whichever is less, as a result of the UST release of petroleum.

- 2) Applicable indicator contaminants and groundwater quality standards shall be those identified pursuant to Sections 732.310 and 732.311 of this Part.
- 3) A minimum of four groundwater monitoring wells shall be installed at the property boundary or 200 feet from the UST system, whichever is less. 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, which 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 water, minimize turbidity of the sample, and minimize clogging.
- 4) Monitoring well construction diagrams prescribed and provided by the Agency or diagrams using a similar format and containing the same information 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 quality standards or clean-up objectives have been exceeded. Samples shall be collected and analyzed in accordance with the following procedures:
 - A) Samples shall be collected in accordance with the procedures set forth in the documents "Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water," "Practical Guide for Ground-Water Sampling," "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," or "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," as appropriate for the applicable indicator contaminants or groundwater objectives and as incorporated by reference at Section 732.104 of this Part.
 - 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 shall have a practical quantitation limit (PQL) at or below the objectives or detection levels of Appendix B 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 "Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water," "Practical Guide for Ground-Water Sampling," "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," and "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," as incorporated by reference at Section 732.104.

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); and
- iv) Chain of custody and control; and
- v) Field and lab blanks.

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

- a) Soil boring logs shall be kept for all soil borings. The logs shall be submitted along with the site classification completion report and shall be on forms prescribed by the Agency or in a similar format containing the same information.
 - 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; and
 - C) Unified Soil Classification System (USCS) soil classification group symbol in accordance with ASTM Standard D 2487-90, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in Section 732.104 of this Part.
- 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

- a) Within 30 days of ~~after~~ the completion of a site evaluation in accordance with Section 732.307, 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, as well as the results or conclusions of all surveys and investigations and any documentation necessary to

demonstrate those results or conclusions. The report shall be submitted on forms prescribed by the Agency or in a similar format containing the same information, shall be signed by the owner or operator, and shall contain the certification of a Licensed Professional Engineer of the site's classification as "No Further Action," "Low Priority" or "High Priority" in accordance with this Subpart C.

- 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

- a) For purposes of this Part, the term "indicator contaminants" shall mean the parameters listed in subsections (b) through (g) below.
- b) For gasoline, including but not limited to leaded, unleaded, premium and gasohol, the indicator contaminants shall be benzene, ethylbenzene, toluene and total xylenes). 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 Appendix A. 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, the polynuclear aromatics listed in Appendix B and the polychlorinated biphenyl parameters listed in Appendix B.
- e) For hydraulic fluids the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes the polynuclear aromatics listed in Appendix B 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. 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. Prior to the submission of a site classification plan the owner or operator shall collect a grab sample from a location representative of soil contaminated by a release from the used oil UST. If an area of contamination cannot be identified, the sample shall be collected from beneath the used oil UST. The sample shall be analyzed for:
- 1) All volatile, base/neutral, polynuclear aromatic and metal parameters listed at Appendix B and any other parameters the Licensed Professional Engineer 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, polynuclear aromatic and metal parameters listed at Appendix B or as otherwise identified at subsection (a) above that exceed their cleanup objective at Appendix B or as determined by the Agency.
 - 3) If none of the parameters exceed their cleanup objective, the used oil indicator contaminants shall be benzene, BETX and the polynuclear aromatics listed in Appendix B.

Section 732.311 Indicator Contaminant Groundwater Objectives

For purposes of this Part, indicator contaminant groundwater quality standards shall be the groundwater objectives specified in Appendix B 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 objectives on a site-by-site basis.

SUBPART D: CORRECTIVE ACTION

Section 732.400 General

- a) Following approval of the site evaluation and classification by the Agency or by operation of law pursuant to Subpart C of this Part and except as provided in subsection (b) or (c) below, the owner or operator of an 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 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 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 or by operation of law 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) above are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

Section 732.401 Agency Authority to Initiate

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

Section 732.402 "No Further Action" Site

The owner or operator of a site that has been certified as a "No Further Action" site by a Licensed Professional Engineer and approved as such by the Agency or by operation of law shall have no additional remediation responsibilities beyond those performed pursuant to Subparts B or C of this Part. Unless the Agency takes action to reject or modify the site classification completion report pursuant to Section 732.309, the Agency shall issue to the owner or operator within 120 days of after the receipt of a complete report a "No Further Remediation" letter in accordance with Section 732.410.

Section 732.403 "Low Priority" Site

- a) The owner or operator of a site that has been certified as a "Low Priority" site by a Licensed Professional Engineer and approved as such by the Agency or by operation of law shall develop a groundwater monitoring plan and perform groundwater monitoring in accordance with the requirements of this Section.
- b) The owner or operator of a site certified as "Low Priority" by a Licensed Professional Engineer and approved as such by the Agency or by operation of law 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;
 - 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;
 - 3) Groundwater monitoring wells shall satisfy the requirements at Sections 732.307(j)(3) and 732.307(j)(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 quality standards or Agency approved 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.
- c) Prior to the implementation of groundwater monitoring, the owner or operator shall submit the groundwater monitoring plan to the Agency for review in accordance with Section 732.405. 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. The groundwater monitoring budget plan shall include a line item estimate of all costs associated with the implementation and completion of the groundwater monitoring plan. Groundwater monitoring plans and budgets shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.
- d) Groundwater analysis results obtained pursuant to subsection (b) above shall be submitted to the Agency within 30 days of ~~ef~~ after the end of each annual sampling period on forms prescribed by the Agency or in a similar format containing the same information.
- 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 quality standards or Agency approved 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 quality standards shall be determined in accordance with Section 732.311 of this Part.
- e) Within 30 days ~~of~~ ~~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.
 - 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 Section 732.410 upon approval of the report by the Agency or by operation of law.
 - 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 within 60 days ~~of~~ ~~after~~ the receipt of an annual groundwater sampling report, a groundwater monitoring completion report, or a notification by the owner or operator pursuant to subsection (d)(2) above. 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 ~~of~~ ~~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) above 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 ~~of~~ ~~after~~ receiving the notice of reclassification. If the owner or operator intends to seek reimbursement from the Fund, a corrective action plan budget also shall be submitted within 120

days ~~of~~ after receiving the notice of reclassification.

Section 732.404 "High Priority" Site

- a) The owner or operator of a site that has been certified by a Licensed Professional Engineer as a "High Priority" site and approved as such by the Agency or by operation of law 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) below that caused the site to be classified as "High Priority."
- b) The owner or operator of a site certified as "High Priority" by a Licensed Professional Engineer and approved as such by the Agency or by operation of law or reclassified as "High Priority" by the Agency pursuant to Section 732.403(g) shall develop a corrective action plan based on site conditions and designed to achieve the following as applicable to the site:
 - 1) Provide that, after complete performance of the corrective action plan, applicable indicator contaminant objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation. If off-site sampling is included within an approved corrective action plan and if an adjoining property owner will not allow the owner or operator access to his or her property so as to ascertain information sufficient to satisfy this requirement ~~or if the owner cannot be located~~, adequate documentation of the owner or operators' efforts to gain access to the property shall satisfy this subsection;
 - 2) Provide that, 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;
 - 3) Remediate threats due to the presence or migration, through natural or manmade pathways, of petroleum in concentrations 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;
 - 4) Remediate threats to potable water supplies; and

- 5) Remediate threats to bodies of surface water.
- c) In developing the corrective action plan, if the Licensed Professional Engineer selects soil or groundwater remediation, or both, to satisfy any of the criteria set forth in subsection (b) above, remediation objectives shall be determined in accordance with Section 732.408 of this Part. Groundwater monitoring wells shall satisfy the requirements of Sections 732.307(j)(3) and 732.307(j)(4) of this Part.
- d) 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.
- e) 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 plan budget also shall be submitted to the Agency for review. The corrective action plan budget shall include a line item estimate of all costs associated with the implementation and completion of the corrective action plan. The corrective action plan and corrective action plan budget shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.
- f) Within 30 days of ~~ef~~ 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.
- g) 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 Section 732.410 upon approval by the Agency or by operation of law.

- 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 Sections 732.403 or 732.404 of this Part, as applicable. Groundwater monitoring and corrective action plans shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.
- b) In addition to the plans required in subsection (a) above 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. Such budget plans shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and a line item estimate of all costs associated with the development, implementation and completion of the applicable activities. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part. Groundwater monitoring and corrective action budget plans shall be submitted on forms prescribed by the Agency or in a similar format containing the same information.
- c) The Agency shall have the authority to review and approve, reject or require modification of any plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.
- d) Notwithstanding subsections (a) and (b) above 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 or corrective action plan or budget. However, any such 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 or reimbursement 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 or reimbursement. 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 in accordance with the procedures contained in Subpart E of this Part.

Section 732.406 Deferred Corrective Action; Priority List

- a) NOTWITHSTANDING ANY OTHER PROVISION OR RULE OF LAW WITH THE EXCEPTION OF THE early action requirements of Subpart B of this Part, THE OWNER OR OPERATOR WHO HAS SUBMITTED ANY budget PLAN PURSUANT TO this Part AND WHO IS ELIGIBLE FOR PAYMENT FROM THE UNDERGROUND STORAGE TANK FUND SHALL BE ELIGIBLE TO ELECT TO COMMENCE CORRECTIVE ACTION UPON THE AVAILABILITY OF FUNDS. SUCH ELECTION SHALL BE MADE IN WRITING TO THE AGENCY WITHIN 30 DAYS OF RECEIPT OF AGENCY APPROVAL OF A budget PLAN. THE AGENCY SHALL PROVIDE NOTICE TO THE OWNER OR OPERATOR AT SUCH TIME AS IT APPROVES THE budget PLAN WHETHER SUFFICIENT RESOURCES ARE AVAILABLE IN ORDER TO IMMEDIATELY COMMENCE THE APPROVED MEASURES. (Section 57.8(b) of the Act)
- 1) Approvals of budget plans shall be pursuant to Agency review or by operation of law in accordance with Subpart E of this Part.
 - 2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment for approved budget plans and shall provide notice to owners or operators of the availability of funds in accordance with Section 732.503(h). Funds shall not be deemed available for owners or operators electing to defer corrective action so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.
 - 3) Upon receiving written notification that an owner or operator elects to defer corrective action until funds are available, the Agency shall place the site on a priority list for notification of availability of sufficient funds. Sites shall enter the priority list and move up based solely on the date the Agency receives the written notification of deferral, with the earliest dates having the highest priority. 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 registered or certified mail.
 - 4) 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.

- 5) Authorization of payment of encumbered funds for deferred corrective action activities shall be approved in accordance with the requirements of Subpart F of this Part.
 - 6) The priority list for notification of availability of sufficient funds shall be the same as that used for deferred site classification pursuant to Section 732.306 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) SHOULD THE AGENCY OR OWNER OR OPERATOR DETERMINE A THREAT TO HUMAN HEALTH AND/OR THE ENVIRONMENT REQUIRES IMMEDIATE ACTION, INCLUDING THE EXISTENCE OF PETROLEUM OR VAPORS WHICH 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 ELECTION TO COMMENCE CORRECTIVE ACTION UPON THE AVAILABILITY OF FUNDS SHALL NOT BE AVAILABLE. THE AGENCY SHALL NOTIFY THE OWNER OR OPERATOR BY CERTIFIED MAIL THAT A SITUATION EXISTS THAT WOULD PRECLUDE THE OWNER OR OPERATOR FROM COMMENCING CORRECTIVE ACTION UPON THE AVAILABILITY OF FUNDS. SUCH ACTION BY THE AGENCY SHALL NOT BE SUBJECT TO APPEAL. (Section 57.8(b) of the Act)
- c) An owner or operator may withdraw the election to commence corrective action upon the availability of funds at any time. The Agency shall be notified 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

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

Section 732.408 Risk Based Remediation Objectives

- a) For sites requiring "High Priority" corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.300(b), 732.400(b) or, 732.400(c) of this Part, the owner or operator may propose remediation objectives for applicable indicator contaminants based on a site specific assessment of risk. In support of site specific remediation objectives, the owner or operator shall demonstrate to the Agency that the proposed objectives will be protective of human health and the environment.
 - 1) Except as provided in subsection (a)(2) of this Section, the owner or operator may propose site specific remediation objectives for applicable indicator contaminants.
 - 2) For applicable indicator contaminants that have a groundwater quality standard promulgated pursuant to 35 Ill. Adm. Code 620, site specific groundwater remediation objectives may be proposed so as to achieve groundwater quality standards established pursuant to, and using the procedures approved under, 35 Ill. Adm. Code 620.
- b) In reviewing a proposal for site specific remediation objectives pursuant to subsection (a)(1) above, the Agency shall evaluate the following factors:
 - 1) The potential for any remaining contaminants to pose a significant threat to human health or the environment;
 - 2) Circumstances related to the practicality of remediation;
 - 3) The management of risk relative to any remaining contamination;
 - 4) Background levels for the applicable indicator contaminants; and
 - 5) Appropriateness of the scientific methodology selected as a basis for the demonstration of protectiveness and correct application of the methodology. Methodologies adopted by a nationally recognized entity such as American Society for Testing and Materials (ASTM), or equivalent methodologies, shall be acceptable for use as a basis for the demonstration of protectiveness.
- c) For sites requiring "High Priority" corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.300(b), 732.400(b) or 732.400(c) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (a) above, the owner or operator shall use remediation objectives, as applicable,

based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.310 of this Part, the Agency shall determine remediation objectives on a site-by-site basis.

Board Note: The remediation objectives contained in Appendix B are not soil or groundwater standards. The remediation objectives contained in Appendix B of this Part are not remediation objectives for purposes of remediation of releases other than LUST releases pursuant to this Part 732.

- d) The election to proceed under either subsection (a) or (c) above does not prohibit the owner or operator from exercising the other option at a later time.

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports

- a) Within 30 days of ~~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 not be 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 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 not be 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. A "High Priority" corrective action completion report shall demonstrate the following:
 - A) 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;

- B) 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;
 - C) 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;
 - D) The release of petroleum does not threaten any surface water body; and
 - E) The release of petroleum does not threaten any potable water supply.
- b) The applicable report shall be submitted on forms prescribed by the Agency or in a similar format containing the same information, shall be signed by the owner or operator, and shall be accompanied by a certification from a Licensed Professional Engineer 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" Letters

- a) Upon approval by the Agency or by operation of law of 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 from 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.
- c) If an applicable report is approved by operation of law pursuant to Subpart E of this Part and a "no further remediation" letter is not received from the Agency, the legal presumptions prescribed by Section 57.10 of the Act also shall become effective by operation of law.
- d) 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 of after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

~~SUBPART E: PLAN AND REPORT SELECTION AND REVIEW PROCEDURES~~
SELECTION AND REVIEW PROCEDURES FOR PLANS AND REPORTS

Section 732.500 General

- a) The Agency shall have the authority to review any plan or report, including any amended 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.
- b) For purposes of this Part 732, "plan" shall mean:
 - 1) Any physical soil classification or groundwater investigation plan or associated budget plan submitted pursuant to Subpart C of this Part;
 - 2) Any groundwater monitoring plan or associated budget plan submitted pursuant to Subpart D of this Part; or
 - 3) Any site-specific corrective action plan or associated budget plan submitted pursuant to Subpart D of this Part.
- c) For purposes of this Part 732, "report" shall mean:
 - 1) Any early action report or free product removal report submitted pursuant to Subpart B of this Part;
 - 2) Any site classification completion report submitted pursuant to Subpart C of this Part;

- 3) Any annual groundwater monitoring report submitted pursuant to Subpart D of this Part;
- 4) Any groundwater monitoring completion report submitted pursuant to Subpart D of this Part; or
- 5) Any corrective action completion report submitted pursuant to Subpart D of this Part or Sections 732.300(b) or 732.400(b) or (c) of this Part.

Section 732.501 Submittal of Plans or Reports

All plans or reports shall be made on forms prescribed by the Agency or in a similar format containing the same information. Plans or reports 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.

Section 732.502 Completeness Review

- a) The Agency shall review for completeness all plans submitted pursuant to this Part 732. The completeness review shall be sufficient to determine whether all information and documentation required by the Agency form for the particular plan are present. The review shall not be used to determine the technical sufficiency of a particular plan or of the information or documentation submitted along with the plan.
- b) The Agency shall have 45 days from the receipt of a plan to finish the completeness review. If the completeness review finds that the plan is complete, the Agency shall so notify the owner or operator in writing and proceed, where appropriate, to approval, rejection or modification of the substantive portions of the plan. If the completeness review finds that the plan is incomplete, the Agency shall notify the owner or operator in writing. The notification shall include an explanation of the specific type of information or documentation that the Agency deems necessary to complete the plan.
 - 1) The Agency may, to the extent consistent with Agency deadlines, provide the owner or operator with a reasonable opportunity to correct deficiencies prior to a final determination on completeness.
 - 2) The Agency shall mail notice of incompleteness by registered or certified mail, post marked with a date stamp and with return receipt requested. The decision shall be deemed to have taken place on the post marked date that such notice is mailed.

- 3) All time limits for Agency final action on a plan or report shall be calculated from the date the Agency receives a complete plan or report. Receipt of an amended plan or report, after a notice of incompleteness, shall restart all time limits for Agency final action on that plan or report.
- c) Any budget plan submitted must be preceded or accompanied by an associated technical plan in order for the budget plan to be deemed complete.
- d) The failure of the Agency to notify an owner or operator within 45 days that a plan is either complete or incomplete shall result in the plan being deemed complete by operation of law. Any action by the Agency pursuant to this Section shall be subject to appeal to the Board within 35 days of after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.

Section 732.503 Full Review of Plans or Reports

- a) In addition to the completeness review for plans conducted pursuant to Section 732.502, the Agency may conduct a full review of plans or reports selected in accordance with the requirements of Section 732.504. A full review may include any or all technical or financial information, or both, relied upon by the owner or operator or Licensed Professional Engineer in developing the plan or report selected for review. The full review also may include the review of any other 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 or report that has been given a full review. The Agency shall notify the owner or operator in writing of its final action on any such plan or report. Except as provided in subsections (c) and (d) below, if the Agency fails to notify the owner or operator of its final action on a plan or report within 120 days of after the receipt of a plan or report, the owner or operator may deem the plan or report approved by operation of law. If the Agency rejects a 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 full review;
 - 2) An explanation of the sections of the Act or regulations that may be violated if the 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 or report is approved.

- c) For "High Priority" corrective action plans submitted by owners or operators not seeking reimbursement 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 ~~of~~ ~~after~~ the submittal of a complete 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 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 of a plan or report shall be subject to appeal to the Board within 35 days ~~of~~ ~~after~~ the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. Any owner or operator may elect to incorporate modifications required by the Agency and shall do so by submitting a revised plan or report within 30 days ~~of~~ ~~after~~ the receipt of the Agency's written notification. If no revised plan or report is submitted to the Agency or no appeal to the Board filed within the specified time frames, the plan or report shall be deemed approved as modified by the Agency.
- g) Notification of Selection for Full Review
 - 1) Owners or operators submitting plans shall be notified by the Agency within 60 days from the date the plan is received whether or not the plan has been selected for full review in accordance with Section 732.504 of this Part. Failure of the Agency to so notify the owner or operator or notification by the Agency that the plan has not been selected for full review shall constitute approval of the plan by operation of law.
 - 2) Owners or operators submitting reports shall be notified by the Agency within 60 days ~~of~~ ~~after~~ the receipt of the report whether or not the report has been selected for full review in accordance with Section 732.504 of this Part. Failure of the Agency to so notify the owner or operator or notification by the Agency that the report has not been selected for full review shall constitute approval of the report by operation of law.
 - 3) Notice shall be sent and the date of notification shall be computed in

accordance with subsection (e) above.

- h) In accordance with Sections 732.306 and 732.406 of this Part, upon the approval of any budget plan by the Agency or by operation of law, the Agency shall include as part of the final notice to the owner or operator a statement of whether or not the Fund contains sufficient resources in order to immediately commence the approved measures.

Section 732.504 Selection of Plans or Reports for Full Review

- a) The Agency shall select for full review a reasonable number of each type of plan or report. The number of plans or reports selected for full review shall be determined by the Agency based on the resources available to the Agency, the potential environmental impact at the site, the financial and technical complexity of the plan or report, and experience with prior reviews. To assure consistency and fairness in the selection process, the Agency shall follow a selection process that has the following goals:
 - 1) A full technical and financial review of every "High Priority" corrective action plan, associated budget plan, and completion report submitted pursuant to Subpart D of this Part;
 - 2) A full technical and financial review of every corrective action plan, associated budget plan, and completion report submitted pursuant to Sections 732.300(b) or 732.400(c) of this Part;
 - 3) A full technical review of approximately 20% of the site classification reports submitted pursuant to Subpart C of this Part;
 - 4) Site Classification Plans
 - iA) A full technical review of any site classification plan (including physical soil classification and groundwater investigation plans) for which the associated site classification report was selected for full review or that has an associated budget plan exceeding the typical cost for such plans as determined by the Agency;
 - iiB) A full financial review of any site classification budget plan exceeding the typical cost for such plans as determined by the Agency;
 - 5) "Low Priority" Groundwater Monitoring Plans

- iA) A full technical review of any "Low Priority" groundwater monitoring plan that has an associated budget plan exceeding the typical cost for such plans as determined by the Agency;
 - iiB) A full financial review of any "Low Priority" groundwater monitoring budget plan exceeding the typical cost for such plans as determined by the Agency;
- 6) A full technical review of any "Low Priority" annual groundwater sampling and analysis report or any groundwater monitoring completion report submitted pursuant to Subpart D of this Part;
- 7) A full technical review of any 20-day report, 45-day report, or free product report submitted pursuant to Subpart B of this Part in conjunction with the review of another plan or report selected in accordance with this Section.
- b) The Agency may conduct a full review of any plan or report not selected in accordance with the provisions of this Section if the Agency has reason to believe that such review is necessary in conjunction with the review of another plan or report selected for that site.
- c) Notwithstanding any other limitations on reviews, the Agency may conduct a full technical review on any plan or report identified in this Section that concerns a site for which an investigation has been or may be initiated pursuant to Section 732.105 of this Part.
- d) Agency decisions on whether or not to select a plan or report for full review shall not be subject to appeal.

Section 732.505 Standards of ~~for~~ Review ~~for~~ of Plans and ~~or~~ Reports

- a) A full technical review shall consist of a detailed review of the steps proposed or completed to accomplish the goals of the plan and to achieve compliance with the Act and regulations. Items to be reviewed, if applicable, shall include, but not be limited to, number and placement of wells and borings, number and types of samples and analysis, results of sample analysis, and protocols to be followed in making determinations. The overall goal of the technical review for plans shall be to determine if the plan is sufficient to satisfy the requirements of the Act and regulations and has been prepared in accordance with generally accepted engineering practices. The overall goal of the technical review for reports shall be to determine if the plan has been fully implemented in accordance with generally accepted engineering practices, if the conclusions are consistent with the information obtained while

implementing the plan, and if the requirements of the Act and regulations have been satisfied.

- b) If the Licensed Professional Engineer certifies that there is no evidence that, through natural or manmade pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces, the Licensed Professional Engineer's certification to that effect shall be presumed correct unless the Agency's review reveals objective evidence to the contrary.
- c) A full financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed shall include, but not be limited to, costs associated with any materials, activities or services that are included in the budget plan. The overall goal of the financial review shall be to assure that costs associated with materials, activities and services shall be reasonable, shall be consistent with the associated technical plan, shall be incurred in the performance of corrective action activities, and shall not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations.

SUBPART F: PAYMENT OR REIMBURSEMENT

Section 732.600 General

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

Section 732.601 Applications for Payment

- a) An owner or operator seeking payment from the Fund shall submit to the Agency an application for payment on forms prescribed by the Agency or in a similar format containing the same information. The owner or operator may submit an application for partial payment or final payment for materials, activities or services contained in an approved budget plan. An application for payment also may be submitted for materials, activities or services for early action conducted pursuant to Subpart B of this Part and for which no budget plan is required.

- b) A complete application for payment shall consist of the following elements:
- 1) A certification from a Licensed Professional Engineer acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or by operation of law or, for early action activities, in accordance with Subpart B;
 - 2) A statement of the amount approved in the corresponding budget plan and the amount actually sought for payment along with a certified statement by the owner or operator that the amount so sought has been expended in conformance with the elements of a budget plan approved by the Agency or by operation of law;
 - 3) A copy of the OSFM 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; and
 - 7) A Minority/Women's Business Usage form.
- c) Applications for payment 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.
- d) Applications for partial or final payment may be submitted no more frequently than once every 90 days.
- e) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, 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.
- f) In no case shall the Agency authorize payment to an owner or operator in an amount greater than the amount approved by the Agency or by operation of law 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 in accordance with Sections 732.305(e) or 732.405(e) of this Part.

Section 732.602 Review of Applications for Payment

- a) The Agency shall conduct a review of any application for payment submitted pursuant to this Part 732. Each application for payment shall be reviewed to determine whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part and whether the amounts sought for payment have been certified in accordance with Section 732.601(b)(2) of this Part as equal to or less than the amounts approved in the corresponding budget plan. Any action by the Agency pursuant to this subsection shall be subject to appeal to the Board within 35 days of ~~of~~ after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.
- b) The Agency may conduct a full review of any application for payment:
 - 1) If the amounts sought for payment exceed the amounts approved in the corresponding budget plan;
 - 2) If the Agency has reason to believe that the application for payment is fraudulent; or
 - 3) If the application for payment includes costs for early action activities conducted pursuant to Subpart B of this Part and either of the following circumstances exist:
 - A) The application for payment is solely for early action costs that have not been approved as part of a prior budget plan; or
 - B) The application for payment includes early action costs that have not been approved as part of a prior budget plan, except that only the portion of the application for the unapproved early action costs may be given a full review.
- c) When conducting a full 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 (d) below.
- d) A full review of an application for payment shall be sufficient to determine which line items contained in the application for payment have caused the application for payment to exceed the corresponding approved budget plan pursuant to subsection (b)(1) above, which line items, if any, are ineligible for payment pursuant to subsections (b)(2) or (b)(3) above, and whether there is sufficient documentation to demonstrate that line items have been completed in accordance with a plan approved by the Agency or by operation of law. A

full 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 full review also may include the review of any 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.

- e) 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 (f) below, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days ~~of~~ 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 full review;
 - 2) An explanation of the ~~s~~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 ~~s~~Sections of the Act or regulations may be violated if the application for payment is approved.
- f) An owner or operator may waive the right to a final decision within 120 days ~~of~~ 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.
- g) 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.
- h) 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 ~~of~~ after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. Any owner or operator may elect to incorporate modifications required by the Agency and shall do so by submitting a revised application for payment within

30 days ~~of~~ after the receipt of the Agency's written notification. If no revised application for payment is submitted to the Agency or no appeal to the Board is filed within the specified timeframes, the application for payment shall be deemed approved as modified by the Agency and payment shall be authorized in the amount approved.

Section 732.603 Authorization for Payment; Priority List

- a) Within 60 days ~~of~~ after notification of 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 subsections (c) or (d) below 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 from 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) Any deductible, as determined by the OSFM, shall be subtracted from any amount approved for payment by the Agency or by operation of law.
- c) For owners or operators who have deferred site classification or corrective action in accordance with Sections 732.306 or 732.406 of this Part, payment shall be authorized from funds encumbered pursuant to Sections 732.306(a)(4) or 732.406(a)(4) of this Part upon approval of the application for payment by the Agency or by operation of law.
- d) For owners or operators not electing to defer site classification or corrective action in accordance with Sections 732.306 or 732.406 of this Part, the Agency shall form a priority list for the issuance of vouchers pursuant to subsection (a) above.
 - 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 or operator's priority for payment in accordance with subsection (d)(2) below, 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 (d)(1) above. 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

a) Limitations per occurrence:

- 1) THE AGENCY SHALL NOT APPROVE ANY PAYMENT FROM THE FUND TO PAY AN OWNER OR OPERATOR FOR COSTS OF CORRECTIVE ACTION INCURRED BY SUCH OWNER OR OPERATOR IN AN AMOUNT IN EXCESS OF \$1,000,000 PER OCCURRENCE. (Section 57.8(g) of the Act)
- 2) THE AGENCY SHALL NOT APPROVE ANY PAYMENT FROM THE FUND TO PAY AN OWNER OR OPERATOR FOR COSTS OF INDEMNIFICATION OF SUCH OWNER OR OPERATOR IN AN AMOUNT IN EXCESS OF \$1,000,000 PER OCCURRENCE. (Section 57.8(g) of the Act)

b) Aggregate limitations:

- 1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS Part 732, THE AGENCY SHALL 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 SUCH OWNER OR OPERATOR IN ILLINOIS:

AMOUNT	NUMBER OF TANKS
\$1,200,000	FEWER THAN 101
\$2,000,000	101 OR MORE

- 2) COSTS INCURRED IN EXCESS OF THE AGGREGATE AMOUNTS SET FORTH IN subsection (b)(1) above SHALL NOT BE ELIGIBLE FOR PAYMENT IN SUBSEQUENT YEARS. (Section 57.8(d) of the Act)

- 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. (Section 57.8(d) of the Act)

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. (Section 57.8(d) of the Act)

Section 732.605 Eligible Costs

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

- 1) Early action activities conducted pursuant to Subpart B of this Part;
- 2) Engineering oversight services;
- 3) Remedial investigation and design;
- 4) Feasibility studies;
- 5) Laboratory services necessary to determine site classification and whether the established corrective action objectives have been met;
- 6) Installation and operation of groundwater investigation and groundwater monitoring wells;
- 7) The removal, treatment, transportation and disposal of soil contaminated by petroleum at levels in excess of the established corrective action objectives;
- 8) The removal, treatment, transportation and disposal of water contaminated by petroleum at levels in excess of the established corrective action objectives;
- 9) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established corrective action objectives;
- 10) Groundwater corrective action systems;

- 11) Alternative technology;
 - 12) Recovery of free phase petroleum from groundwater;
 - 13) 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;
 - 14) 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 their agent agent of an owner or operator;
 - 15) Engineering costs associated with seeking payment or reimbursement from the Fund including, but not limited to, completion of an application for partial or final payment;
 - 16) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSFM;
 - 17) Costs for destruction and replacement of concrete, asphalt and paving to the extent necessary to conduct corrective action and if the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer;
 - 18) 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. For purposes of this subsection, 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; and
 - 19) Preparation of 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.
- 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) above if the owner or operator submits detailed information demonstrating that the activities, materials or services not identified in subsection (a) above are essential to the completion of the minimum corrective action requirements of

the Act and this Part 732.

Section 732.606 Ineligible Costs

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

- a) Costs for the removal of more than four feet of fill material from the outside dimensions of the UST during early action activities conducted pursuant to Section 732.202(f);
- 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 ~~their agent~~ 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 OR INDEMNIFICATION INCURRED BY AN OWNER OR OPERATOR PRIOR TO JULY 28, 1989 (Section 57.8(j) of the Act);
- f) Costs associated with the procurement of a generator identification number;
- g) LEGAL DEFENSE COSTS INCLUDING LEGAL COSTS FOR SEEKING PAYMENT UNDER these regulations UNLESS THE OWNER OR OPERATOR PREVAILS BEFORE THE BOARD and the Board authorizes payment of legal fees (Section 57.8(l) of the Act);
- 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 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 an 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 and the repair of existing USTs;
- m) Costs exceeding those contained in a budget plan or amended budget plan approved by the Agency or by operation of law;
- n) Costs of corrective action or indemnification 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 for constituents other than applicable indicator contaminants or groundwater objectives;
- s) Costs for any corrective activities, services or materials unless accompanied by a letter from OSFM 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 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; and
- cc) Costs for investigative activities and related services or materials for developing a "High Priority" corrective action plan that are unnecessary or inconsistent with generally accepted engineering practices or unreasonable costs for justifiable activities, materials or services.

Section 732.607 Payment for Handling Charges

HANDLING CHARGES ARE ELIGIBLE FOR PAYMENT ONLY IF THEY ARE EQUAL TO OR LESS THAN THE AMOUNT DETERMINED BY THE FOLLOWING TABLE (Section 57.8(g) of the Act):

SUBCONTRACT OR FIELD PURCHASE COST:	ELIGIBLE HANDLING CHARGES AS A PERCENTAGE OF COST:
\$0 - \$5,000	12%
\$5,001 - \$15,000	\$600 PLUS 10% OF AMOUNT OVER \$5,000
\$15,001 - \$50,000	\$1,600 PLUS 8% OF AMOUNT OVER \$15,000
\$50,001 - \$100,000	\$4,400 PLUS 5% OF AMOUNT OVER \$50,000
\$100,000 - \$1,000,000	\$6,900 PLUS 2% OF AMOUNT OVER \$100,000

Section 732.608 Apportionment of Costs

- a) The Agency may apportion payment of costs if:
 - 1) THE OWNER OR OPERATOR WAS DEEMED ELIGIBLE TO ACCESS THE FUND FOR PAYMENT OF CORRECTIVE ACTION COSTS FOR SOME, BUT NOT ALL, OF THE UNDERGROUND STORAGE TANKS AT THE SITE; AND

2) THE OWNER OR OPERATOR FAILED TO JUSTIFY ALL COSTS ATTRIBUTABLE TO EACH UNDERGROUND STORAGE TANK AT THE SITE. (Derived from Section 57.8(m) of the Act)

- b) Upon notification from the Agency of an apportionment of costs pursuant to this Section, the owner or operator shall within 30 days notify the Agency whether the apportionment shall be based upon the total number of all the USTs at the site or the total volume of all of the USTs at the site.

Section 732.609 Subrogation of Rights

PAYMENT OF ANY AMOUNT FROM THE FUND FOR CORRECTIVE ACTION OR INDEMNIFICATION SHALL BE SUBJECT TO THE STATE ACQUIRING BY SUBROGATION THE RIGHTS OF ANY OWNER, OPERATOR, OR OTHER PERSON TO RECOVER THE COSTS OF CORRECTIVE ACTION OR INDEMNIFICATION FOR WHICH THE FUND HAS COMPENSATED SUCH OWNER, OPERATOR, OR PERSON FROM THE PERSON RESPONSIBLE OR LIABLE FOR THE RELEASE. (Section 57.8(h) of the Act)

Section 732.610 Indemnification

- a) Upon submittal of a request for indemnification for payment of costs incurred as a result of a release of petroleum from an underground storage tank, the Agency shall review the application for payment in accordance with this Subpart F.
- b) 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(d)(1) of this Part based on the date the complete application was received by the Agency.

Section 732.611 Costs Covered By Insurance, Agreement or Court Order

COSTS OF CORRECTIVE ACTION OR INDEMNIFICATION INCURRED BY AN OWNER OR OPERATOR WHICH HAVE BEEN PAID TO AN OWNER OR OPERATOR UNDER A POLICY OF INSURANCE, ANOTHER WRITTEN AGREEMENT, OR A COURT ORDER ARE NOT ELIGIBLE FOR PAYMENT from the Fund. AN OWNER OR

OPERATOR WHO RECEIVES PAYMENT UNDER A POLICY OF INSURANCE, ANOTHER WRITTEN AGREEMENT, OR A COURT ORDER SHALL REIMBURSE THE STATE TO THE EXTENT SUCH PAYMENT COVERS COSTS FOR WHICH PAYMENT WAS RECEIVED FROM THE FUND. (Section 57.8(e) of the Act)

Section 732.612 Determination and Collection of Excess Payments

- a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) below.
 - 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 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.
- 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) above 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) shall prohibit the Agency from exercising at any time its options at subsections (c)(2) or (c)(3) below 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 sSection 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 (1993).

Section 732.Appendix A Indicator Contaminants

TANK CONTENTS

GASOLINE

leaded[§], unleaded, premium and gasohol

MIDDLE DISTILLATE AND HEAVY ENDS

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

heavy oils

transformer oils[§]

hydraulic fluids[§]

petroleum spirits[§]

mineral spirits[§], Stoddard solvents[§]

high-flash aromatic naphthas[§]

VM&P naphthas[§]

moderately volatile hydrocarbon solvents[§]

petroleum extender oils[§]

USED OIL

(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 732.310(g)

(6) acenaphthylene, benzo(g,h,i)perylene and phenanthrene

INDICATOR CONTAMINANTS

benzene

ethylbenzene

toluene

xylene

benzene

ethylbenzene

toluene

xylene

acenaphthene

anthracene

benzo(a)anthracene

benzo(a)pyrene

benzo(b)fluoranthene

benzo(k)fluoranthene

chrysene

dibenzo(a,h)anthracene

fluoranthene

fluorene

indeno(1,2,3-c,d)pyrene

naphthalene

pyrene

other non-carc.PNAs(total)[§]

screening sample[§]

Section 732. Appendix B Groundwater and Soil Remediation Objectives and Acceptable Detection Limits (ADL) and Soil Remediation Methodology

Section 732. Appendix B Table A Groundwater and Soil Remediation Objectives

<u>Parameters</u>	<u>Objectives</u>		<u>ADLs¹</u>	
	<u>Soil (mg/kg)</u>	<u>Groundwater (mg/l)</u>	<u>Soil (mg/kg)</u>	<u>Groundwater (mg/l)</u>
<u>Volatiles</u>				
1. Benzene		0.005		
2. Bromoform		0.001		0.001
3. Carbon tetrachloride		0.005		
4. Chlorobenzene		0.1		
5. Chloroform		0.0002		0.0002
6. Dichlorobromomethane		0.0002		0.0002
7. 1,2-Dichloroethane		0.005		
8. 1,1-Dichloroethene		0.007		
9. cis-1,2-Dichloroethene		0.07		
10. trans-1,2-Dichloroethene		0.01		
11. Dichloromethane		0.005		
12. 1,2-Dichloropropane		0.005		
13. cis-1,3-Dichloropropene		0.001		0.001
14. trans-1,3-Dichloropropene		0.001		0.001
15. Ethylbenzene		0.7		
16. Styrene		0.1		
17. Tetrachloroethene		0.005		
18. Toluene		1.0		
19. 1,1,1-Trichloroethane		0.2		
20. 1,1,2-Trichloroethane		0.005		
21. Trichloroethene		0.005		
22. Vinyl chloride		0.002		
23. Xylenes (total)		10.0		
24. BETX (total)		11.705		
<u>Base/Neutrals</u>				
1. Bis(2-chloroethyl)ether		0.01		0.01
2. Bis(2-ethylhexyl)phthalate		0.006		0.006
3. 1,2-Dichlorobenzene		0.6		
4. 1,4-Dichlorobenzene		0.075		
5. Hexachlorobenzene		0.0005		0.0005
6. Hexachlorocyclopentadiene		0.05		
7. N-Nitrosodi-n-propylamine		0.01		0.01
8. N-Nitrosodiphenylamine		0.01		0.01
9. 1,2,4-Trichlorobenzene		0.07		

Polynuclear Aromatics

1. Acenaphthene	0.42	
2. Anthracene	2.1	
3. Benzo(a)anthracene	0.00013	0.00013
4. Benzo(a)pyrene	0.0002	0.00023
5. Benzo(b)fluoranthene	0.00018	0.00018
6. Benzo(k)fluoranthene	0.00017	0.00017
7. Chrysene	0.0015	0.0015
8. Dibenzo(a,h)anthracene	0.0003	0.0003
9. Fluoranthene	0.28	
10. Fluorene	0.28	
11. Indeno(1,2,3-c,d)pyrene	0.00043	0.00043
12. Naphthalene	0.025	
13. Pyrene	0.21	
14. other		
Non-Carcinogenic		
PNAs (total)	0.21	
Acenaphthylene		
Benzo(g,h,i)perylene		
Phenanthrene		

Metals²

1. Arsenic	0.05	0.05
2. Barium	2.0	2.0
3. Cadmium	0.005	0.005
4. Chromium (total)	0.1	0.1
5. Lead	0.0075	0.0075
6. Mercury	0.002	0.002
7. Selenium	0.05	0.05

Acids

1. Pentachlorophenol	0.001	0.001
2. Phenol (total)	0.1	
3. 2,4,6-Trichlorophenol	0.0064	0.0064

Pesticides

1. Aldrin	0.00004	0.00004
2. alpha-BHC	0.00003	0.00003
3. Chlordane	0.002	
4. 4,4'-DDE	0.00004	0.00004
5. 4,4'-DDD	0.00011	0.00011
6. 4,4'-DDT	0.00012	0.00012
7. Dieldrin	0.00002	0.00002
8. Endrin	0.002	

9. Heptachlor		0.0004
10. Heptachlor epoxide		0.0002
11. Lindane (gamma-BHC)		0.0002
12. Toxaphene		0.003

Polychlorinated Biphenyls

1. Polychlorinated Biphenyls (as Decachlorobiphenyl)	*	0.0005
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* See 40 CFR 761.120, as incorporated by reference at Section 732.104, for USEPA "PCB Spill Cleanup Policy."

(1) Acceptable Detection Limit - "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846 and "Methods for the Determination of Organic Compounds in Drinking Water," EPA, EMSL, EPA-600/4-88/039, as incorporated by reference at Section 732.104 of this Part, must be used. For parameters where the specified objective is below the ADL, the ADL shall serve as the objective until the USEPA promulgates lower ADLs. When promulgated, the new USEPA ADL or the specified objective, whichever is higher, shall apply. For other parameters the ADL must be below the specified cleanup objective.

(2) For soil, based upon the concentration determined by the Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) at 40 CFR 261, Appendix II, as incorporated by reference at Section 732.104 of this Part.

Section 732. Appendix B Table B Soil Remediation Methodology: Model Parameter Values

PARAMETER	DEFINITION (UNIT)	MODEL VALUES
S_d	Source width (vertical plane) [cm]	304.8
S_w	Source width (horizontal plane) [cm]	609.6
α_x	Longitudinal dispersivity [cm]	$0.1 * x$
α_y	Transverse dispersivity [cm]	$\alpha_x/3$
α_z	Vertical dispersivity [cm]	$\alpha_x/20$
U	Specific discharge ($K_s i / \theta_s$) [cm/day]	0.346
K_s	Saturated hydraulic conductivity [cm/d]	86.4
k_s	Sorption coefficient [$\text{cm}^3\text{-H}_2\text{O/g-soil}$]	Chemical specific
θ_s	Volumetric water content of saturated zone	0.25
i	Groundwater gradient [cm/cm]	0.001
λ	First order degradation constant [day^{-1}]	Chemical specific
x	Distance along the center line from edge of dissolved plume source zone [cm]	152-6096
U_{gw}	Groundwater Darcy Velocity [cm/year]	2500
δ_{gw}	Groundwater mixing zone thickness [cm]	304.8
ρ_s	Soil bulk density [g/cm^3]	1.7
θ_{as}	Volumetric air content in vadose zone soils [$\text{cm}^3 - \text{air/cm}^3 - \text{soil}$]	0.22
θ_{ws}	Volumetric water content in vadose zone soils [$\text{cm}^3 - \text{water/cm}^3 - \text{soil}$]	0.12
H	Henry's Law constant [$\text{cm}^3 - \text{water/cm}^3 - \text{soil}$]	Chemical specific
I	Infiltration rate of water through soil [cm/year]	30
W	Width of source parallel to groundwater flow [cm]	1500

Section 732. Appendix B Table C Soil Remediation Methodology: Chemical Specific Parameters

Chemical	Sorption Coefficient (k _s)	Degradation Constant (λ)	Henry's Law Constant (H)	Solubility (mg/l)	Ground water Objective (mg/l)
Benzene	0.38	0.0009	0.22	1750	0.005
Toluene	1.349	0.011	0.26	535	1.0
Ethyl Benzene	0.955	0.003	0.32	152	0.7
Xylene	2.399	0.0019	0.29	130	10.0
Naphthalene	12.88	0.0027	0.049	31.7	0.025
Benzo(a)pyrene	3890.45	0.0007	1.49 x 10 ⁻⁹	0.0012	0.0002

Section 732. Appendix B Table D Soil Remediation Methodology: Objectives

Distance (ft)	Chemical Name					
	Benzene	Toluene	Ethyl Benzene	Xylenes	Naphthalene	Benzo(a) pyrene
	Soil Cleanup Objectives (PPM)					
5	0.005	1.0	0.7	10.0	0.025	0.019
10	0.005	11.010	0.7	10.0	0.025	0.025
15	0.005	13.943	0.7	10.0	0.025	0.033
20	0.005	13.943	0.7	10.0	0.025	0.045
25	0.005	13.943	1.507	10.0	0.459	0.065
30	0.005	13.943	2.908	10.0	0.991	0.084
35	0.005	13.943	2.908	10.0	2.095	0.084
40	0.005	13.943	2.908	10.0	4.305	0.084
45	0.005	13.943	2.908	10.0	7.366	0.084
50	0.005	13.943	2.908	10.0	7.366	0.084
55	0.005	13.943	2.908	10.0	7.366	0.084
60	0.005	13.943	2.908	10.0	7.366	0.084
65	0.007	13.943	2.908	10.0	7.366	0.084
70	0.010	13.943	2.908	10.0	7.366	0.084
75	0.015	13.943	2.908	10.0	7.366	0.084
80	0.020	13.943	2.908	10.0	7.366	0.084
85	0.028	13.943	2.908	10.0	7.366	0.084
90	0.038	13.943	2.908	10.0	7.366	0.084
95	0.051	13.943	2.908	10.0	7.366	0.084
100	0.069	13.943	2.908	10.0	7.366	0.084

Distance (ft)	Chemical Name					
	Benzene	Toluene	Ethyl Benzene	Xylenes	Naphthalene	Benzo(a) pyrene
	Soil Cleanup Objectives (PPM)					
105	0.091	13.943	2.908	10.0	7.366	0.084
110	0.120	13.943	2.908	10.0	7.366	0.084
115	0.157	13.943	2.908	10.0	7.366	0.084
120	0.205	13.943	2.908	10.0	7.366	0.084
125	0.265	13.943	2.908	10.0	7.366	0.084
130	0.341	13.943	2.908	10.0	7.366	0.084
135	0.436	13.943	2.908	10.0	7.366	0.084
140	0.555	13.943	2.908	10.0	7.366	0.084
145	0.704	13.943	2.908	10.0	7.366	0.084
150	0.888	13.943	2.908	10.0	7.366	0.084
155	1.115	13.943	2.908	10.0	7.366	0.084
160	1.395	13.943	2.908	10.0	7.366	0.084
165	1.738	13.943	2.908	10.0	7.366	0.084
170	2.157	13.943	2.908	10.0	7.366	0.084
175	2.668	13.943	2.908	10.0	7.366	0.084
180	3.289	13.943	2.908	10.0	7.366	0.084
185	4.042	13.943	2.908	10.0	7.366	0.084
190	4.950	13.943	2.908	10.0	7.366	0.084
195	6.046	13.943	2.908	10.0	7.366	0.084
200	7.362	13.943	2.908	10.0	7.366	0.084

Section 732. Appendix B Illustration A Equation For Groundwater Transport

The Board used the following correct ASTM equation for steady state attenuation of chemical concentration obtained from Domenico, P.A., "An Analytical Model for Multidimensional Transport of a Decaying Contaminant Species." *Journal of Hydrology*, Vol. 91, pp:49-58,

$$\frac{C(x)}{C_{source}} = \exp\left[-\frac{x}{2\alpha_x}\left(1 - \sqrt{1 + \frac{4\lambda\alpha_x}{U}}\right)\right] \left[\operatorname{erfc}\left(\frac{S_w}{4\sqrt{\alpha_y x}}\right)\right] \left[\operatorname{erfc}\left(\frac{S_d}{4\sqrt{\alpha_z x}}\right)\right]$$

1987, as referenced in the ASTM guide ASTM ES-38, "ASTM Guide for Risk-Based Corrective Action Applied At Petroleum Release Sites", approved May 1994:

C = Dissolved hydrocarbon concentration along centerline of dissolved plume [$\text{g}/\text{cm}^3\text{-H}_2\text{O}$]

C_{source} = Dissolved hydrocarbon concentration in dissolved plume source area [$\text{g}/\text{cm}^3\text{-H}_2\text{O}$]

S_d = Source width (vertical plane) [cm]

S_w = Source width (horizontal plane) [cm]

α_x = Longitudinal dispersivity [cm]

α_y = Transverse dispersivity [cm]

α_z = Vertical dispersivity [cm]

$U = K_s i / \theta_s$

K_s = Saturated hydraulic conductivity [cm/d]

k_s = Sorption coefficient

θ_s = Volumetric water content of saturated zone

i = Groundwater gradient [cm/cm]

λ = First order degradation constant

$\operatorname{erfc}(\eta)$ = Error function evaluated for value of η

x = Distance along the center line from edge of dissolved plume source zone [cm]

Section 732. Appendix B Illustration B Equation For Soil-Groundwater Relationship

The Board used the following equation drawn from the ASTM guidelines, as referenced in Illustration A, to calculate the soil leaching factor (identified as "Equation No. 4" in the IPMA proposal Illinois Petroleum Marketers Association (IPMA) proposal discussed within the Board's Second Notice Opinion and Order, Docket R94-2(A), entitled "In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732) (Pursuant to P.A. 88-496):

LF_{sw} = Leaching factor

k_s = Soil-water sorption coefficient

U_{gw} = Groundwater Darcy Velocity [cm/sec]

δ_{gw} = Groundwater mixing zone thickness [cm]

ρ_s = Soil bulk density

$$LF_{sw} \frac{(mg/l-Water)}{(mg/kg-Soil)} = \frac{\rho_s}{[\theta_{ws} + k_s \rho_s + H\theta_{as}] \left(1 + \frac{U_{gw} \delta_{gw}}{IW}\right)} \times 10^0 \frac{cm^3-kg}{L-g}$$

θ_{as} = Volumetric air content in vadose zone soils

θ_{ws} = Volumetric water content in vadose zone soils

H = Henry's Law constant

I = Infiltration rate of water through soil

W = Width of source parallel to groundwater flow

Section 732. Appendix B Illustration C Equation For Calculating Groundwater Objectives at the Source

The Board used the following equation drawn from the IPMA proposal (see Illustration B) to calculate the groundwater objectives at the source:

$$GW_{source} = \frac{GW_{comp}}{(C(x)/C_{source})}$$

GW_{source} = Groundwater objective at the source

GW_{comp} = Groundwater objective at compliance point

$C(x)/C_{source}$ = Calculated for a distance of 200 feet using equation 1

Section 732. Appendix B Illustration D Equation For Calculating Soil Objectives at the Source

The Board used the following equation drawn from the IPMA proposal to calculate the soil remediation objectives:

$$SoilTarget = \frac{GW_{source}}{(LF_{sw})SF}$$

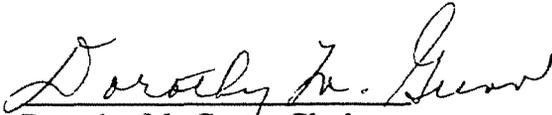
Soil Target = Soil objective at the source

LF_{sw} = Soil leaching factor calculated using equation 2

SF = Safety factor (1000)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 15th day of September, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board