

ILLINOIS POLLUTION CONTROL BOARD
April 9, 1992

IN THE MATTER OF:	)	
	)	
UST UPDATE	)	R91-14
USEPA REGULATIONS	)	(Identical in
(1/1/91 - 6/30/91)	)	Substance
		Rulemaking)

Adopted Rule. Final Order.

ORDER OF THE BOARD (by J. Anderson):

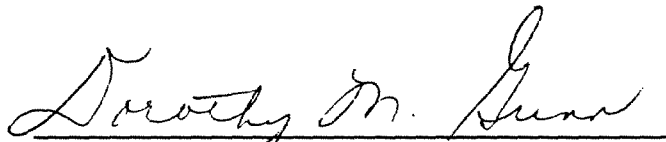
Pursuant to Section 22.4(d) of the Environmental Protection Act (Act), the Board is amending the UST underground storage tank regulations in 35 Ill. Adm. Code 731. The Board is adopting a separate Opinion on this same day.

Section 22.4 of the Act governs adoption of regulations establishing the RCRA/UST program in Illinois. Section 22.4(d) provides for quick adoption of regulations which are "identical in substance" to federal regulations. Section 22.4(d) provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by the Joint Committee on Administrative Rules (JCAR). The federal UST rules are found at 40 CFR 280. This rulemaking updates Illinois' UST rules to correspond with the following USEPA actions, during the period January 1 through June 30, 1991.

The complete text of the rules is attached to this Order. The rules will be filed, and will appear in the Illinois Register in the near future.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 9th day of April, 1992, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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

PART 731
 UNDERGROUND STORAGE TANKS

SUBPART A: PROGRAM SCOPE AND INTERIM PROHIBITION

Section	
731.101	Definitions and exemptions (Repealed)
731.102	Interim prohibitions (Repealed)
731.103	Notification Requirements (Repealed)
731.110	Applicability
731.111	Interim Prohibition for Deferred Systems <u>(Repealed)</u>
731.112	Definitions
731.113	Incorporations by Reference
731.114	Implementing Agency <u>(Repealed)</u>

SUBPART B: UST SYSTEMS: DESIGN, CONSTRUCTION,
 INSTALLATION AND NOTIFICATION

Section	
731.120	Performance Standards for New Systems <u>(Repealed)</u>
731.121	Upgrading of Existing Systems <u>(Repealed)</u>
731.122	Notification Requirements

SUBPART C: GENERAL OPERATING REQUIREMENTS

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731.130	Spill and Overfill Control <u>(Repealed)</u>
731.131	Operation and Maintenance of Corrosion Protection
731.132	Compatibility <u>(Repealed)</u>
731.133	Repairs Allowed <u>(Repealed)</u>
731.134	Reporting and Recordkeeping <u>(Repealed)</u>

SUBPART D: RELEASE DETECTION

Section	
731.140	General Requirements for all Systems <u>(Repealed)</u>
731.141	Petroleum Systems <u>(Repealed)</u>
731.142	Hazardous Substance Systems <u>(Repealed)</u>
731.143	Tanks <u>(Repealed)</u>
731.144	Piping <u>(Repealed)</u>
731.145	Recordkeeping <u>(Repealed)</u>

SUBPART E: RELEASE REPORTING, INVESTIGATION AND CONFIRMATION

Section	
731.150	Reporting of Suspected Releases <u>(Repealed)</u>
731.151	Investigation due to Off-site Impacts <u>(Repealed)</u>
731.152	Release Investigation and Confirmation <u>(Repealed)</u>
731.153	Reporting and Cleanup of Spills and Overfills <u>(Repealed)</u>

SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION

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731.160	General
731.161	Initial Response
731.162	Initial Abatement Measures and Site Check
731.163	Initial Site Characterization
731.164	Free Product Removal
731.165	Investigations for Soil and Groundwater Cleanup
731.166	Corrective Action Plan
731.167	Public Participation

SUBPART G: OUT-OF-SERVICE SYSTEMS AND CLOSURE

Section	
731.170	Temporary Closure <u>(Repealed)</u>
731.171	Permanent Closure and Changes-in-Service <u>(Repealed)</u>
731.172	Assessing Site at Closure or Change-in-Service <u>(Repealed)</u>
731.173	Previously Closed Systems <u>(Repealed)</u>
731.174	Closure Records <u>(Repealed)</u>

SUBPART H: FINANCIAL RESPONSIBILITY

Section	
731.190	Applicability <u>(Repealed)</u>
731.191	Compliance Dates <u>(Repealed)</u>
731.192	Definitions <u>(Repealed)</u>
731.193	Amount and Scope of Required Financial Responsibility <u>(Repealed)</u>
731.194	Allowable Mechanisms and Combinations <u>(Repealed)</u>
731.195	Financial Test of Self-insurance <u>(Repealed)</u>
731.196	Guarantee <u>(Repealed)</u>
731.197	Insurance or Risk Retention Group Coverage <u>(Repealed)</u>
731.198	Surety Bond <u>(Repealed)</u>
731.199	Letter of Credit <u>(Repealed)</u>
731.200	UST State Fund <u>(Repealed)</u>
731.202	Trust Fund <u>(Repealed)</u>
731.203	Standby Trust Fund <u>(Repealed)</u>
731.204	Substitution of Mechanisms <u>(Repealed)</u>
731.205	Cancellation or Nonrenewal by Provider <u>(Repealed)</u>
731.206	Reporting <u>(Repealed)</u>
731.207	Recordkeeping <u>(Repealed)</u>
731.208	Drawing on Financial Assurance <u>(Repealed)</u>
731.209	Release from Financial Assurance Requirement <u>(Repealed)</u>
731.210	Bankruptcy or other Incapacity <u>(Repealed)</u>
731.211	Replenishment <u>(Repealed)</u>
731.900	Incorporation by reference (Repealed)
731.901	Compliance Date (Repealed)

Appendix A Notification Form

Appendix C Statement for Shipping Tickets and Invoices

AUTHORITY: Implementing and authorized by Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1022.4, 1022.13 and 1027 (Sections 22.4(d), 22.13(d) and 27 of the Environmental Protection Act, as amended by P.A. 87-323).

SOURCE: Adopted in R86-1 at 10 Ill. Reg. 14175, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6220, effective March 24, 1987; amended in R88-27 at 13 Ill. Reg. 9519, effective June 12, 1989; amended in R89-4 at 13 Ill. Reg. 15010, effective September 12, 1989; amended in R89-10 at 14 Ill. Reg. 5797, effective April 10, 1990; amended in R89-19 at 14 Ill. Reg. 9454, effective June 4, 1990; amended in R90-3 at 14 Ill. Reg. 11964, effective July 10, 1990; amended in R90-12 at 15 Ill. Reg. 6527, effective April 22, 1991; amended in R91-2 at 15 Ill. Reg. 13800, effective September 10, 1991; amended in R91-14 at 16 Ill. Reg. effective

NOTE: Capitalization denotes statutory language.

SUBPART A: PROGRAM SCOPE AND INTERIM PROHIBITION

Section 731.110 Applicability

- a) This Part applies to owners and operators of an Underground Storage Tank (UST) system as defined in Section 731.112 except as otherwise provided in subsections (b), ~~(c) or (d)~~. ~~Any UST system listed in subsection (c) must meet the requirements of Section 731.111 or (c).~~
- b) The following UST systems are excluded from the requirements of this Part:
 - 1) Any UST system holding hazardous waste or a mixture of such hazardous waste and other regulated substances.
 - 2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 12(f) of the Environmental Protection Act (Ill. Rev. Stat. ~~1987~~1989, ch. 111 1/2, par. 1012(f)).
 - 3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
 - 4) Any UST system whose capacity is 110 gallons or less.

- 5) Any UST system that contains a de ~~minus~~-minimis concentration of regulated substances.
- 6) Any emergency spill or overflow containment UST system that is expeditiously emptied after used.
- c) Deferrals. ~~Subparts B, C, D, E and G do~~ Section 731.122 does not apply to any of the following types of UST systems:
 - 1) Wastewater treatment tank systems;
 - 2) Any UST systems containing radioactive materials that are regulated by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);
 - 3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50, Appendix A, incorporated by reference in Section 731.113;
 - 4) Airport hydrant fuel distribution systems; and
 - 5) UST systems with field-constructed tanks.
- ~~d) Deferrals. Subpart D does not apply to any UST system that stores fuel solely for use by emergency power generators.~~
- e) Heating oil USTs.
 - 1) Definitions. The following definitions apply to this subsection only:

"Beneath the surface of the ground" is as defined in Section 731.112.

"Consumptive use" with respect to heating oil means consumed on the premises.

"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; OTHER RESIDUAL FUEL OILS INCLUDING NAVY SPECIAL FUEL OIL AND BUNKER C. (Section 22.18(e)(1)(H) of the Act)

"HEATING OIL UNDERGROUND STORAGE TANK" or "HEATING OIL UST" MEANS AN UNDERGROUND STORAGE TANK SERVING OTHER THAN FARMS OR

RESIDENTIAL UNITS THAT IS USED EXCLUSIVELY TO STORE HEATING OIL FOR CONSUMPTIVE USE ON THE PREMISES WHERE STORED. (Section 22.18(e)(1)(I) of the Act)

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Pipe" or "piping" is as defined in Section 731.112.

"Regulated substance" is as defined in Section 731.112.

"Tank" is as defined in Section 731.112.

"Underground storage tank" ("UST") is 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 the underground pipes connected thereto) is ten per centum or more beneath the surface of the ground.

2) Subsections (a) through (c) notwithstanding, THIS PART APPLIES TO OWNERS AND OPERATORS OF ANY HEATING OIL UST. (Section 22.4(d)(5) of the Act)

3) The owner or operator of a heating oil UST shall comply with the same requirements as the owner or operator of a "petroleum UST", as defined in Section 731.112, any other provisions of this Part notwithstanding.

BOARD NOTE: This subsection implements Section 22.4(d)(5) of the Act, which requires that this Part be applicable to "heating oil USTs", as that term is defined in Section 22.18(e) of the Act. However, that and related terms are used in a manner which is inconsistent with the definitions and usage in this Part. The definitions used in this applicability statement are therefore limited to this subsection.

Source: Amended at 16 Ill. Reg. effective

Section 731.111 Interim Prohibition for Deferred Systems
(Repealed)

~~a) No person shall install an UST system listed in Section 731.110(c) for the purpose of storing regulated substances unless the UST system (whether of single or double-wall construction):—~~

~~1) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;~~

~~2) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and—~~

~~3) Is constructed or lined with material that is compatible with the stored substance.—~~

~~b) Notwithstanding subsection (a), an UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators shall maintain records that demonstrate compliance with the requirements of this subsection for the remaining life of the tank.—~~

~~BOARD NOTE: NACE RP0285, incorporated by reference in Section 731.113, may be used as guidance for compliance with this subsection.—~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.112 Definitions

"Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

"Act" means the Environmental Protection Act (Ill. Rev. Stat. ~~1987~~1989, ch. 111 1/2, par. 1001 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves and pumps used to distribute, meter or

control the flow of regulated substances to and from an UST.

"Belowground release" means any release to the subsurface of the land and to groundwater. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Board" means the Illinois Pollution Control Board.

~~"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.~~

~~"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons shall have education and experience in soil resistivity, stray current, structure to soil potential and component electrical isolation measurements of buried metal piping and tank systems.~~

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.)

~~"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.~~

"Connected piping" means all underground piping including valves, elbows, joints, flanges and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems must be allocated equally between them.

~~"Consumptive use" with respect to heating oil means consumed on the premises.~~

BOARD NOTE: For "consumptive use" see Section 731.110(e).

~~"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.~~

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

~~"ESDA" means the Illinois Emergency Services and Disaster Agency. "EMA" means the Illinois Emergency Management Agency.~~

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, wall and floor of the pit and trenches into which the UST system is placed at the time of installation.

~~"Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if:~~

~~The owner or operator has obtained all federal, state and local approvals or permits necessary to begin physical construction of the site or installation of the tank system;~~

~~And, if either:~~

~~A continuous on-site physical construction or installation program has begun; or,~~

~~The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.~~

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

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

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a nonaqueous liquid phase (e.g., liquid not dissolved in water.)

"Gasoline Storage Act" means ~~"An Act To Regulate The Storage, Transportation, Sale And Use Of Gasoline And Volatile Oils"~~, as amended (Ill. Rev. Stat. 19879, ch. 127 1/2, par. 151 et seq.), as amended by P.A. 87-323.

"Gathering lines" means any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance" means any substance listed in 40 CFR 302.4, incorporated by reference in Section 731.113 (but not including any substance regulated as a hazardous waste under 35 Ill. Adm. Code 721).

BOARD NOTE: This definition is derived from the

definition of "hazardous substance UST system" in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, and "hazardous substance" in Section 101(14) of CERCLA. The United States Environmental Protection Agency (USEPA) regulations which implement the statutes cited in CERCLA have been inserted in place of the authorizing statutes.

"Hazardous substance UST system" means an underground storage tank system that contains a "hazardous substance", or any mixture of "hazardous substances" and "petroleum" which is not a "petroleum UST system".

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"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; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); or other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

BOARD NOTE: For the applicability of these rules to heating oil USTs, see Section 731.110(e).

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevator and other similar devices.

~~"Implementing agency". See Section 731.114.~~

"Liquid trap" means sumps, well cellars and other traps used in association with oil and gas production, gathering and extraction operations (including gas production plants), for the purpose of collecting oil, water and other liquid. These liquid traps may temporarily collect liquids for subsequent disposition for reinjection into a production or pipeline stream, or may collect and separate liquids from gas stream.

~~"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.~~

"Motor fuel" means petroleum or a petroleum-based

substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol, and is typically used in the operation of a motor engine.

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See also "Existing Tank System.")

"Noncommercial purposes" with respect to motor fuel means not for resale.

~~"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.~~

BOARD NOTE: For the definition of "on the premises where stored", see Section 731.110(e).

~~"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under Subpart G.~~

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use or dispensing of regulated substances; and

In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, unit of local government, commission, political subdivision of a state or any interstate body. Person, also includes a consortium, a joint venture, a commercial entity and the United States Government.

"Petroleum" means 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). The term "petroleum" includes, but is not limited to, petroleum and petroleum-based substances comprising a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

BOARD NOTE: This definition is derived from the definitions of "petroleum UST system" and "regulated substance" in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of "petroleum" with de ~~minus~~ minimis quantities of other "regulated substances".

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Pipe" or "Piping" means a hollow cylinder or tabular conduit that is constructed of non-~~earthen~~ earthen materials.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities or buildings.

"Regulated substance" means any "hazardous substance" or "petroleum".

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into groundwater, surface water or subsurface soils.

~~"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier~~

~~or secondary containment around it.~~

~~"Repair" means to restore a tank or UST system component that has caused a release of product from the UST system.~~

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled ~~seilds~~ solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Storm water or wastewater collection system" means piping, pumps, conduits and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of ~~earthen~~ earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of ~~non-earthen~~ earthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any below-ground release.

"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 the underground pipes connected thereto) is ten per centum or more beneath

the surface of the ground. Such term does not include any:

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

~~Tank used for storing heating oil for consumptive use on the premises where stored.~~

BOARD NOTE: For the applicability of these rules to heating oil tanks, see Section 731.110(e).

Septic tank.

Pipeline facility (including gathering lines) regulated under:

The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A. 1671 et seq. (1987 and 1987 Supp.)), or

The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C.A. 2001 et seq. (1987)), or

The Illinois Gas Pipeline Safety Act (Ill. Rev. Stat. ~~1987~~1989, ch. 111 2/3, pars. 551 et seq.).

Surface impoundment, pit, pond or lagoon.

Storm-water or wastewater 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.

The term "underground storage tank" does not include any pipes connected any tank which is described in the above subparagraphs.

~~"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining or spill and overfill controls to improve the ability of an~~

~~underground storage tank system to prevent the release of product.~~

"USEPA" means United States Environmental Protection Agency.

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

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical or biological methods.

Source: Amended at 16 Ill. Reg. effective

Section 731.113 Incorporations by Reference

a) ~~The following publications are incorporated by reference:~~

~~ACT. Available from the Association for Composite Tanks, 108 N. State St., Suite 720, Chicago, IL 60602, (800) 368-2105.~~

~~ACT-100/88, "Specification for the Fabrication of FRP Clad/Composite Underground Storage Tanks", revised March 16, 1988~~

~~ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 354-3300.~~

~~See ASME.~~

~~API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, (202) 682-8000.~~

~~API Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks", Second Edition, December, 1987~~

~~API Recommended Practice 1615, "Installation of Underground Petroleum Storage Systems", Fourth Edition, November, 1987~~

~~API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets", Fourth Edition, December, 1987~~

~~API Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations", First Edition, April, 1985~~

~~API Recommended Practice 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations", First Edition, August, 1986~~

~~API Recommended Practice 1631, "Interior Lining of Underground Storage Tanks", Second Edition, December, 1987~~

~~API Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", Second Edition, December, 1987~~

~~API Publication 2015, "Cleaning Petroleum Storage Tanks", Third Edition, September, 1985~~

~~API Publication 2200, "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines", Second Edition, April, 1983~~

~~ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, (212) 705-7722;~~

~~"Chemical Plant and Petroleum Refinery Piping", ASME/ANSI B31.3 - 1987, as supplemented by B31.3a - 1988 and B31.3b - 1988. Also available from ANSI.~~

~~"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols", ASME/ANSI B31.4 - 1986, as supplemented by B31.4a - 1987. Also available from ANSI.~~

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

~~ASTM D4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks", approved July 25, 1986.~~

~~NACE. Available from the National Association of~~

~~Corrosion Engineers, 1400 South Creek Dr.,
Houston, TX 77084, (713) 492-0535.~~

~~NACE Standard Recommended Practice RP0169-83,
"Control of External Corrosion on Underground
or Submerged Metallic Piping Systems",
Revised January, 1983~~

~~NACE Standard Recommended Practice RP0285-85,
"Control of External Corrosion on Metallic
Buried, Partially Buried, or Submerged Liquid
Storage Systems", Approved March, 1985~~

~~NFPA. Available from the National Fire Protection
Association, Batterymarch Park, Boston, MA 02269,
(617) 770-3000 or (800) 344-3555.~~

~~NFPA 30, "Flammable and Combustible Liquids
Code", issued July 17, 1987. Also available
from ANSI.~~

~~NFPA 385, "Tank Vehicles for Flammable and
Combustible Liquids", issued December 7,
1984. Also available from ANSI.~~

~~NIOSH. Available from the National Institute for
Occupational Safety and Health, Publications
Office, 4676 Columbia Parkway, Cincinnati, OH
45226 (513) 533-8287.~~

~~NIOSH Publication No. 80-106, "Criteria for a
Recommended Standard ... Working in a Confined
Spaces", December, 1979~~

~~PEI. Petroleum Equipment Institute, Box 2380,
Tulsa, OK 74101 918/ 743-9941.~~

~~PEI/RP100-87, "Recommended Practices for
Installation of Underground Liquid Storage
Systems", 1987 Edition~~

~~STI. Available from the Steel Tank Institute, 728
Anthony Trail, Northbrook, IL 60062, (312) 498-
1980.~~

~~STI-P3, "Specification and Manual for
External Corrosion Protection of Underground
Steel Storage Tanks", effective May 1, 1987.~~

~~STI, "Standard for Dual Wall Underground
Steel Storage Tanks" (1986).~~

~~UL. Underwriters Laboratories, Inc., Publications~~

~~Stock, 333 Pfingsten Road, Northbrook, IL 60062
2096-312/ 272-8800, extension 2612 or 2622+~~

~~UL 58 --- 1985, "Standard for Steel
Underground Tanks for Flammable and
Combustible Liquids", Eighth Edition, April
15, 1986. Also available from ANSI.~~

~~UL 567 --- 1983, "Standard for Pipe Connectors
for Flammable and Combustible Liquids and LP-
Gas", Fifth Edition, March 12, 1984, as
revised September 30, 1985. Also available
from ANSI.~~

~~UL 1316, "Standard for Glass-Fiber Reinforced
Plastic Underground Storage Tanks for
Petroleum Products", First Edition, July 1,
1983, as revised April 29, 1986 and March 3,
1987~~

~~UL Canada. Underwriters' Laboratories of Canada,
7 Crouse Rd., Scarborough, Ontario M1R 3A9
CANADA, 416/ 757-3611.~~

~~UL Canada Standard CAN4-S603-M85, "Standard
for Steel Underground Tanks for Flammable and
Combustible Liquids", First Edition, June,
1985.~~

~~UL Canada Standard CAN4-S603.1-M85, "Standard
for Galvanic Corrosion Protection Systems for
Steel Underground Tanks for Flammable and
Combustible Liquids", First Edition, June,
1985.~~

~~UL Canada Standard CAN4-S615-M83, "Standard
for Reinforced Plastic Underground Tanks for
Petroleum Products", First Edition, February,
1983.~~

~~UL Canada Standard CAN4-S631-M84, "Standard
for Isolating Bushings for Steel Underground
Tanks Protected with Coatings and Galvanic
Systems", First Edition, May, 1984.~~

~~UL Canada Standard CAN4-S633-M84, "Flexible
Underground Hose Connectors for Flammable and
Combustible Liquids", First Edition, June,
1984.~~

~~UL Canada Subject C107C-M1984, "Guide for
Glass Fibre Reinforced Plastic Pipe and~~

~~Fittings for Flammable Liquids", First Edition, June, 1984.~~

~~b) a)~~ CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238:

10 CFR 50, Appendix A ~~(1990)~~ (1991)

40 CFR 280.3 (1987) (repealed September 23, 1988)

40 CFR 302.4, ~~302.5~~ and 302.6 ~~(1990)~~ (1991)

~~40 CFR 355.40 (1990)~~

~~e) b)~~ This Section incorporates no later editions or amendments.

Source: Amended at 16 Ill. Reg. effective

Section 731.114 Implementing Agency (Repealed)

~~a) The implementing agency is the Fire Marshal or the Agency, as specified in this Part.~~

~~b) Generally the Agency is the implementing agency for corrective action beyond immediate response. The Fire Marshal is the implementing agency for all other aspects of the program.~~

Source: Repealed at 16 Ill. Reg. effective

SUBPART B: UST SYSTEMS: DESIGN,
CONSTRUCTION, INSTALLATION AND NOTIFICATION

Section 731.120 Performance Standards for New Systems
(Repealed)

~~In order to prevent releases due to structural failure, corrosion or spills and overfills for as long as the UST system is used to store regulated substances, owners and operators of new UST systems shall meet the following requirements.~~

~~a) Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:~~

- 1) ~~The tank is constructed of fiberglass-reinforced plastic; or~~

~~BOARD NOTE: The following industry codes, incorporated by reference in Section 731.113, may be used to comply with this subsection: UL 1316; UL Canada Standard CAN4-S615; or ASTM D4021.~~

- 2) ~~The tank is constructed of steel and cathodically protected in the following manner:~~

- ~~A) The tank is coated with a suitable dielectric material;~~
- ~~B) Field-installed cathodic protection systems are designed by a corrosion expert;~~
- ~~C) Impressed current systems are designed to allow determination of current operating status as required in Section 731.131(e);~~
- ~~D) Cathodic protection systems are operated and maintained in accordance with Section 731.131; or~~

~~BOARD NOTE: The following codes and standards, incorporated by reference in Section 731.113, may be used to comply with this subsection: STI-P3; UL 1746; UL Canada Standard CAN4-S603, CAN4-S603.1 and CAN4-S631; NACE RP0285 or UL 58.~~

- 3) ~~The tank is constructed of a steel-fiberglass-reinforced plastic composite; or~~

~~BOARD NOTE: The following industry codes, incorporated by reference in Section 731.113, may be used to comply with this subsection: UL 1746 or ACT-100.~~

- 4) ~~The tank is constructed of metal without additional corrosion protection measures provided that:~~

- ~~A) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and~~
- ~~B) Owners and operators maintain records that~~

~~demonstrate compliance with the requirements of subsection (a)(4)(A) for the remaining life of the tank.~~

- ~~b) Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:~~

- ~~1) The piping is constructed of fiberglass-reinforcing plastic; or~~

~~BOARD NOTE: The following codes and standards, incorporated by reference in Section 731.113, may be used to comply with this subsection: UL 567; UL Canada Subject C107C; UL Canada Standard CAN4-S633.~~

- ~~2) The piping is constructed of steel and cathodically protected in the following manner:~~

- ~~A) The piping is coated with a suitable dielectric material;~~
- ~~B) Field-installed cathodic protection systems are designed by a corrosion expert;~~
- ~~C) Impressed current systems are designed to allow determination of current operating status as required in Section 731.131(c).~~
- ~~D) Cathodic protection systems are operated and maintained in accordance with Section 731.121; or~~

~~BOARD NOTE: The following codes and standards, incorporated by reference in Section 731.113, may be used to comply with this subsection: NFPA 30; API Recommended Practice 1615; API Recommended Practice 1632; NACE RP0169.~~

- ~~3) The piping is constructed of metal without additional corrosion protection measures provided that:—~~

- ~~A) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating~~

~~life, and~~

- ~~B) Owners and operators maintain records that demonstrate compliance with the requirements of subsection (b)(3)(A) for the remaining life of the piping, or~~

~~BOARD NOTE: NFPA 30 and NACE RP0169, incorporated by reference in Section 731.113, may be used to comply with this subsection.~~

~~e) Spill and overfill prevention equipment.~~

- ~~1) Except as provided in subsection (c)(2), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators shall use the following spill and overfill prevention equipment:~~

~~A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin), and~~

~~B) Overfill prevention equipment that will:~~

~~i) Automatically shut off flow into the tank when the tank is no more than 95 percent full, or~~

~~ii) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm.~~

- ~~2) Owners and operators are not required to use the spill and overfill prevention equipment specified in subsection (c)(1) if: The UST system is filled by transfers of no more than 25 gallons at one time.~~

~~d) Installation. All tanks and piping must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.~~

~~BOARD NOTE: Tank and piping system installation practices and procedures described in the following codes, incorporated by reference in Section 731.113, may be used to comply with the requirements this~~

~~subsection: API Recommended Practice 1615, PEI/RP100, or ANSI/ASME B31.3 and B31.4.~~

- e) ~~Certification of installation. All owners and operators shall ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with subsection (d) by providing a certification of compliance on the UST notification form in accordance with Section 731.122.~~
- ~~1) The installer has been certified by the tank and piping manufacturers; or~~
 - ~~2) The installer has been certified or licensed by the Fire Marshal; or~~
 - ~~3) The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation; or~~
 - ~~4) The installation has been inspected and approved by the Fire Marshal; or~~
 - ~~5) All work listed in the manufacturer's installation checklists has been completed.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.121 Upgrading of Existing Systems (Repealed)

- a) ~~Alternatives allowed. Not later than December 22, 1998, all existing UST systems must comply with one of the following requirements:~~
- ~~1) New UST system performance standards under Section 731.120;~~
 - ~~2) The upgrading requirements in subsections (b) through (d); or~~
 - ~~3) Closure requirements under Subpart G, including applicable requirements for corrective action under Subpart F.~~
- b) ~~Tank upgrading requirements. Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:~~

- 1) ~~Interior lining. A tank may be upgraded by internal lining if:~~
 - A) ~~The lining is installed in accordance with the requirements of Section 731.133, and~~
 - B) ~~Within 10 years after lining, and every 5 years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.~~
- 2) ~~Cathodic protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of Section 731.120(a)(2)(B), (C) and (D) and the integrity of the tank is ensured using one of the following methods:~~
 - A) ~~The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system; or~~
 - B) ~~The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with Section 731.143(d) through (h); or~~
 - C) ~~The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of Section 731.143(e). The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three (3) and six (6) months following the first operation of the cathodic protection system.~~
- 3) ~~Internal lining combined with cathodic protection. A tank may be upgraded by both internal lining and cathodic protection if:~~
 - A) ~~The lining is installed in accordance with the requirements of Section 731.133, and~~
 - B) ~~The cathodic protection system meets the requirements of Section 731.120(a)(2)(B), (C) and (D);~~

~~BOARD NOTE: The following codes and standards, incorporated by reference in Section 731.113, may be used to comply with this Section: API Recommended Practice 1631, NACE RP0285 and, API Recommended Practice 1632.~~

- ~~e) Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of Section 731.120(b)(2)(B), (C) and (D).~~

~~BOARD NOTE: The codes and standards listed in the note following Section 731.120(b)(2) may be used to comply with this requirement.~~

- ~~d) Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in Section 731.120(e).~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.122 Notification Requirements

- a) Any owner who brings an underground storage tank system into use after May 8, 1986, shall within 30 days of bringing such tank into use, submit, in the form prescribed in Appendix A, below, a notice of existence of such tank system to the Fire Marshal.

BOARD NOTE: Owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the Fire Marshal in accordance with RCRA and 40 CFR 280.3 (1987), unless notice was given pursuant to 40 CFR 302.6, incorporated by reference in Section 731.113. Section 4(b)(1) of the Gasoline Act (Ill. Rev. Stat. 1987, ch. 127 1/2, par. 156(b)(1)) required notification by December 31, 1987, for tanks which held regulated substances after January 1, 1974. Owners and operators who have not complied with the notification requirements may use portions I through VI of the notification form contained in Appendix A.

- c) Owners required to submit notices under subsection (a), above, shall provide notices to the Fire Marshal for each tank they own. Owners may provide notice for several tanks using one notification form, but owners who own tanks located at more than one place of operation shall file a separate notification form for each separate place of operation.
- d) Notices required to be submitted under subsection (a), above, must provide all of the information in Sections I through VI of the form for each tank for which notice must be given. Notices for tanks installed after December 22, 1988, must also provide all of the information in Section VII of the prescribed form for each tank for which notice must be given.
- e) All owners and operators of new UST systems shall certify in the notification form compliance with the following requirements:
 - 1) Installation of tanks and piping ~~under Section 731.120(e)~~;
 - 2) Cathodic protection of steel tanks and piping ~~under Section 731.120(a) and (b)~~;
 - 3) Financial responsibility ~~under Subpart H~~; and
 - 4) Release detection ~~under Sections 731.141 and 731.142~~.
- f) All owners and operators of new UST systems shall ensure that the installer certifies in the notification form that the methods used to install the tanks and piping complies with the regulatory requirements ~~in Section 731.120(d)~~.
- g) Beginning October 24, 1988, any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of such tank of the owner's notification obligations under subsection (a), above. The form provided in Appendix C may be used to comply with this requirement.

Source: Repealed at 16 Ill. Reg. effective

SUBPART C: GENERAL OPERATING REQUIREMENTS

Section 731.130 Spill and Overfill Control (Repealed)

- ~~a) Owners and operators shall ensure that releases due to~~

~~spilling or overfilling do not occur. The owner and operator shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.~~

~~BOARD NOTE: The transfer procedures described in NFPA 385, incorporated by reference in Section 731.113, may be used to comply with this subsection. Further guidance on spill and overfill prevention appears in API Recommended Practice 1621 and NFPA Standard 30.~~

- ~~b) The owner and operator shall report, investigate and clean up any spills and overfills in accordance with Section 731.153.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.131 Operation and Maintenance of Corrosion
Protection (Repealed)

~~All owners and operators of steel UST systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances:~~

- ~~a) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.~~
- ~~b) All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:~~
- ~~1) Frequency. All cathodic protection systems must be tested within 6 months of installation and at least every 3 years thereafter; and~~
 - ~~2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this Section must be in accordance with a code of practice developed by a nationally recognized association.~~

~~BOARD NOTE: NACE RP0285, incorporated by reference in Section 731.113, may be used to comply with subsection (b)(2).~~

- e) ~~UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.~~
- d) ~~For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with Section 731.134) to demonstrate compliance with the performance standards in this Section. These records must provide the following:~~
 - 1) ~~The results of the last three inspections required in subsection (c), and~~
 - 2) ~~The results of testing from the last two inspections required in subsection (b).~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.132 Compatibility (Repealed)

~~Owners and operators shall use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.~~

~~BOARD NOTE: Owners and operators storing alcohol blends may use the following codes, incorporated by reference in Section 731.113, to comply with the requirements of this Section: API Recommended Practice 1626 and 1627.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.133 Repairs Allowed (Repealed)

~~Owners and operators of UST systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:~~

- a) ~~Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.~~

~~BOARD NOTE: The following codes and standards, incorporated by reference in Section 731.113, may be used to comply with this subsection: NFPA 30, API Publication 2200, and API Recommended Practice 1631.~~

- b) ~~Repairs to fiberglass-reinforced plastic tanks may be~~

~~made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.~~

- ~~e) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications.~~
- ~~d) Repaired tanks and piping must be tightness tested in accordance with Section 731.143(c) and Section 731.144(b) within 30 days following the date of the completion of the repair except as follows:~~
 - ~~1) The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or~~
 - ~~2) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in Section 731.143(d) through (h).~~
- ~~e) Within 6 months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with Section 731.131(b) and (c) to ensure that it is operating properly.~~
- ~~f) UST system owners and operators shall maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this Section.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.134 Reporting and Recordkeeping (Repealed)

~~Pursuant to Section 4(d) of the Act and Section 4(d) of the Gasoline Act (Ill. Rev. Stat. 1987, ch. 127 1/2, par. 154(d)), owners and operators of UST systems shall cooperate fully with inspections, monitoring and testing conducted by the Fire Marshal or Agency, as well as requests for document submission, testing and monitoring by the owner or operator.~~

- ~~a) Reporting. Owners and operators shall submit the following information to the Fire Marshal or Agency:~~

- 1) ~~Notification for all UST systems (Section 731.122), which includes certification of installation for new systems (Section 731.120(e));~~
 - 2) ~~Reports of all releases including suspected releases (Section 731.150), spills and overfills (Section 731.153), and confirmed releases (Section 731.161);~~
 - 3) ~~Corrective actions planned or taken including initial abatement measures (Section 731.162), initial site characterization (Section 731.163), free product removal (Section 731.164), investigation of soil and groundwater cleanup (Section 731.165), and corrective action plan (Section 731.166); and~~
 - 4) ~~A notification before permanent closure or change in service (Section 731.171).~~
- b) ~~Recordkeeping. Owners and operators shall maintain the following information:~~
- 1) ~~A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (Section 731.120(a)(4) and (b)(3)).~~
 - 2) ~~Documentation of operation of corrosion protection equipment (Section 731.131);~~
 - 3) ~~Documentation of UST system repairs (Section 731.133(f));~~
 - 4) ~~Recent compliance with release detection requirements (Section 731.145); and~~
 - 5) ~~Results of the site investigation conducted at permanent closure (Section 731.174).~~
- e) ~~Availability and Maintenance of Records. Owners and operators shall keep the records required either:~~
- 1) ~~At the UST site and immediately available for inspection by the Fire Marshal or Agency; or~~
 - 2) ~~At a readily available alternative site and be provided for inspection to the Fire Marshal or Agency upon request.~~

~~BOARD NOTE: In the case of permanent closure records required under Section 731.174, owners and~~

~~operators are also provided with the additional alternative of mailing closure records to the Fire Marshal if they cannot be kept at the site or an alternative site as indicated above.~~

Source: Repealed at 16 Ill. Reg. effective

SUBPART D: RELEASE DETECTION

Section 731.140 General Requirements for all Systems (Repealed)

- a) ~~Owners and operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that:~~
 - 1) ~~Can detect a release from any portion of the tank and the connected underground piping that routinely contains product.~~
 - 2) ~~Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and~~
 - 3) ~~Meets the performance requirements in Sections 731.143 or 731.144, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after December 22, 1990, except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that method in Section 731.143(b), (c) and (d) or Section 731.144(a) and (b), with a probability of detection of 0.95 and a probability of false alarm of 0.05.~~
- b) ~~When a release detection method operated in accordance with the performance standards in Section 731.143 and 731.144 indicates a release may have occurred, owners and operators shall notify ESDA in accordance with Subpart E.~~
- e) ~~Owners and operators of UST systems shall comply with the release detection requirements of this Subpart in accordance with the following schedule:~~
 - 1) ~~For all pressurized piping as defined in Section 731.141(b)(1), by December 22, 1990.~~

- 2) ~~For tanks and suction piping in accordance with Section 731.141(a), 731.141(b)(2) and 731.142 for tanks:~~
- A) ~~With an unknown installation date, by December 22, 1989.~~
 - B) ~~Installed before 1965, by December 22, 1989.~~
 - C) ~~Installed in 1965 through 1969, by December 22, 1990.~~
 - D) ~~Installed in 1970 through 1974, by December 22, 1991.~~
 - E) ~~Installed in 1975 through 1979, by December 22, 1992.~~
 - F) ~~Installed in 1980 through December 22, 1988, by December 22, 1993.~~
 - G) ~~Installed after December 22, 1988, immediately upon installation.~~
- d) ~~Any existing UST system that cannot apply a method of release detection that complies with the requirements of this Subpart must complete the closure procedures in Subpart G by the date on which release detection is required for that UST system under subsection (c).~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.141 Petroleum Systems (Repealed)

~~Owners and operators of petroleum UST systems shall provide release detection for tanks and piping as follow:~~

- a) ~~Tanks. Tank must be monitored at least every 30 days for releases using one of the methods listed in Section 731.143(d) through (h) except that:~~
 - 1) ~~UST systems that meet the performance standards in Section 731.120 or Section 731.121, and the monthly inventory control requirements in Section 731.143(a) or (b), may use tank tightness testing (conducted in accordance with Section 731.143(e) at least every 5 years until December 22, 1998 or until 10 years after the tank is installed or upgraded under Section 731.121(b), whichever is later.~~

- 2) ~~UST systems that do not meet the performance standards in Section 731.120 or 731.121, may use monthly inventory controls (conducted in accordance with Section 731.143(a) or (b)) and annual tank tightness testing (conducted in accordance with Section 731.143(c)) until December 22, 1998, when the tank must be upgraded under Section 731.121 or permanently closed under Section 731.171; and~~
 - 3) ~~Tanks with capacity of 550 gallons or less may use weekly tank gauging (conducted in accordance with Section 731.143(b)).~~
- b) ~~Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner than meets one of the following requirements:~~
- 1) ~~Pressurized piping. Underground piping that conveys regulated substances under pressure must:~~
 - A) ~~Be equipped with an automatic line leak detector conducted in accordance with Section 731.144(a); and~~
 - B) ~~Have an annual line tightness test conducted in accordance with Section 731.144(b) or have monthly monitoring conducted in accordance with Section 731.144(c).~~
 - 2) ~~Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every 3 years and in accordance with Section 731.144(b), or use a monthly monitoring method conduct in accordance with Section 731.144(c). No release detection is required for suction piping that is designed and constructed to meet the following standards:~~
 - A) ~~The below-grade piping operates at less than atmospheric pressure;~~
 - B) ~~The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;~~
 - C) ~~Only one check valve is included in each suction line;~~
 - D) ~~The check valve is located directly below and~~

~~as close as practical to the suction pump;
and~~

- ~~E) — A method is provided that allows compliance with subsections (b)(2)(B) through (b)(2)(D) to be readily determined.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.142 Hazardous Substance Systems (Repealed)

~~Owners and operators of hazardous substance UST systems shall provide release detection that meets the following requirements:~~

- ~~a) — Release detection at existing UST systems must meet the requirements for petroleum UST systems in Section 731.141. By December 22, 1998, all existing hazardous substance UST systems must meet the release detection requirements for new systems in subsection (b).~~
- ~~b) — Release detection at new hazardous substance UST systems must meet the following requirements:~~
 - ~~1) — Secondary containment systems must be designed, constructed and installed to:~~
 - ~~A) — Contain regulated substances released from the tank system until they are detected and removed;~~
 - ~~B) — Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and~~
 - ~~C) — Be checked for evidence of a release at least every 30 days.~~

~~BOARD NOTE: 35 Ill. Adm. Code 725.293 may be used to comply with these requirements.~~

- ~~2) — Double-walled tanks must be designed, constructed and installed to:~~
 - ~~A) — Contain a release from any portion of the inner tank within the outer wall; and~~
 - ~~B) — Detect the failure of the inner wall.~~
- ~~3) — External liners (including vaults) must be designed, constructed and installed to:~~

- ~~A) Contain 100 percent of the capacity of the largest tank within its boundary;~~
 - ~~B) Prevent the interference of precipitation of groundwater intrusion with the ability to contain or detect a release of regulated substances; and~~
 - ~~C) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).~~
- ~~4) Underground piping must be equipped with secondary containment that satisfies the requirements of subsection (b)(1) (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with Section 731.144(a).~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.143 Tanks (Repealed)

~~Each method of release detection for tanks used to meet the requirements of Section 731.141 must be conducted in accordance with the following:~~

- ~~a) Inventory control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:~~
 - ~~1) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;~~
 - ~~2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;~~
 - ~~3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;~~
 - ~~4) Deliveries are made through a drop tube that extends to within one foot of the tank bottom;~~

- 5) ~~Product dispensing is metered and recorded within an accuracy of 6 cubic inches for every 5 gallons of product withdrawn; and~~

~~BOARD NOTE: Metering of petroleum products is regulated by the Illinois Department of Agriculture pursuant to Sections 8 and 43 of the Weights and Standards Act (Ill. Rev. Stat. 1987, ch. 147 pars. 108 and 143) and 8 Ill. Adm. Code 600.120 and 600.650 et seq. In that these regulations do not specify the accuracy of metering, owners or operators need to obtain an independent certification of meter accuracy prior to using this Section.~~

- 6) ~~The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.~~

~~BOARD NOTE: Practices described in the API Recommended Practice 1621, incorporated by reference in Section 731.113, may be used, where applicable, as guidance in meeting the requirements of this subsection.~~

- b) ~~Manual tank gauging. Manual tank gauging must meet the following requirements:~~

- 1) ~~Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;~~
- 2) ~~Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;~~
- 3) ~~The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;~~
- 4) ~~A leak is suspected and subject to the requirements of Subpart E if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:~~

	Weekly	Monthly	Standard
Nominal Tank Capacity (Gallons)	Standard (Average of One Test)	Standard (Average of Four Tests)	Standard (Average of Four Tests)
	(Gallons)	(Gallons)	(Gallons)

550 or less	105
551 to 1000	137
1001 to 2000	2613

- 5) ~~Only tanks of 550 gallons or less nominal capacity may use this as the sole method of release detection. Tanks of 551 to 2,000 gallons may use the method in place of manual inventory control in Section 731.143(a). Tanks of greater than 2,000 gallons nominal capacity must not use this method to meet the requirements of this Subpart.~~
- e) ~~Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation and the location of the water table.~~
- d) ~~Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:~~
- 1) ~~The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and~~
 - 2) ~~Inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of Section 731.143(a).~~
- e) ~~Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:~~
- 1) ~~The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;~~
 - 2) ~~The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;~~
 - 3) ~~The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater;~~

~~rainfall or soil moisture or other known interferences so that a release could go undetected for more than 30 days;~~

- ~~4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;~~
 - ~~5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;~~
 - ~~6) In the UST excavation zone, the site is assessed to ensure compliance with subsection (e)(1) through (e)(4) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and~~
 - ~~7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.~~
- ~~f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:~~
- ~~1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;~~
 - ~~2) Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soils between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec. (e.g., the soil must consist of gravels, coarse to medium sands, coarse silts or other permeable materials);~~
 - ~~3) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;~~
 - ~~4) Monitoring wells must be sealed from the ground surface to the top of the filter pack;~~
 - ~~5) Monitoring wells or devices intercept the~~

~~excavation zone or are as close to it as is technically feasible;~~

- ~~6) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;~~
- ~~7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subsection (f)(1) through (f)(5) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and~~
- ~~8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;~~
- ~~g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:~~
 - ~~1) For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product;~~

~~BOARD NOTE: The provisions outlined in STI, "Standard for Dual Wall Underground Storage Tank", incorporated by reference in Section 731.113, may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.~~

- ~~2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier;~~
 - ~~A) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at most 0.000001 cm/sec (ten to the minus six) for the regulated substance stored) to direct a release to the monitoring point and permit its detection;~~

- ~~B) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;~~
 - ~~C) For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;~~
 - ~~D) The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;~~
 - ~~E) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and,~~
 - ~~F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.~~
- ~~3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.~~
- ~~h) Other methods. Any other type of release detection method, or combination of methods, can be used if:~~
- ~~1) It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or~~
 - ~~2) The Fire Marshal shall approve by permit condition another method if the owner and operator demonstrates that the method can detect a release as effectively as any of the methods allowed in subsection (c) through (h). In comparing methods, the Fire Marshal shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator shall comply with any conditions imposed by the Fire Marshal on its use to ensure the protection of human health and the environment.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.144 Piping (Repealed)

~~Each method of release detection for piping used to meet the requirements of Section 731.141 must be conducted in accordance with the following.~~

- ~~a) Automatic line leak detectors. A method which alerts the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if it detects leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.~~
- ~~b) Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.~~
- ~~c) Applicable tank methods. Any of the methods in Section 731.143(e) through (h) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.145 Recordkeeping (Repealed)

~~All UST system owners and operators shall maintain records in accordance with Section 731.134 demonstrating compliance with all applicable requirements of this Subpart. These records must include the following:~~

- ~~a) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for 5 years;~~
- ~~b) The results of any sampling, testing or monitoring must be maintained for at least 1 year, except that the results of tank tightness testing conducted in accordance with Section 731.143(e) must be retained until the next test is conducted; and~~
- ~~c) Written documentation of all calibration, maintenance~~

~~and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for 5 years from the date of installation.~~

Source: Repealed at 16 Ill. Reg. effective

SUBPART E: RELEASE REPORTING,
INVESTIGATION AND CONFIRMATION

Section 731.150 Reporting of Suspected Releases (Repealed)

~~Owners and operators of UST systems shall report to the ESDA within 24 hours and follow the procedures in Section 731.152 for any of the following conditions:~~

- ~~a) The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines or nearby surface water).~~
- ~~b) Usual operating conditions observed by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced; and,~~
- ~~c) Monitoring results from a release detection method required under Section 731.141 and Section 731.142 that indicate a release may have occurred unless:~~
 - ~~1) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or~~
 - ~~2) In the case of inventory control, a second month of data does not confirm the initial result.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.151 Investigation due to Off-site Impacts
(Repealed)

~~When required by the Fire Marshal, owners and operators of UST systems shall follow the procedures in Section 731.152 to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines or nearby surface and drinking waters) that has been observed by the Fire Marshal or brought to its attention by another person. The Fire Marshal shall require such an investigation by way of a letter or an oral order followed by a written confirmation.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.152 Release Investigation and Confirmation
 (Repealed)

~~Unless corrective action is initiated in accordance with Subpart F, owners and operators shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under Section 731.150 within 7 days, using the following steps:~~

- ~~a) System test. Owners and operators shall conduct tests (according to the requirements for tightness testing in Section 731.143(c) and Section 731.144(b)) that determine whether a leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or both.~~
 - ~~1) Owners and operators shall repair, replace or upgrade the UST system, and begin corrective action in accordance with Subpart F if the test results for the system, tank or delivery piping indicate that a leak exists.~~
 - ~~2) Further investigation is not required if the test results for the system, tank and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release.~~
 - ~~3) Owners and operators shall conduct a site check as described in subsection (b) if the test results for the system, tank and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release.~~
- ~~b) Site check. Owners and operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting~~

~~sample types, sample locations and measurement methods, owners and operators shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater and other factors appropriate for identifying the presence and source of the release.~~

- ~~1) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners and operators shall begin corrective action in accordance with Subpart F,~~
- ~~2) If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.153 Reporting and Cleanup of Spills and Overfills
(Repealed)

- ~~a) Owners and operators of UST systems shall contain and immediately clean up a spill or overfill and report to the Fire Marshal within 24 hours, and begin corrective action in accordance with Subpart F in the following cases:~~
 - ~~1) Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons, or that causes a sheen on nearby surface water; and~~
 - ~~2) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under 40 CFR 302.4 and 302.5, incorporated by reference in Section 731.113.~~
- ~~b) Owners and operators of UST systems shall contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons, and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators shall immediately notify ESDA.~~

~~BOARD NOTE: Under 40 CFR 302.6 and 355.40, incorporated by reference in Section 731.113, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response~~

~~Center (800/424-8802). In addition, 35 Ill. Adm. Code 750.410 requires notification of the ESDA (800/782-7860).~~

Source: Repealed at 16 Ill. Reg. effective

SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION

Section 731.161 Initial Response

Upon confirmation of a release ~~in accordance with Section 731.152~~ or after a release from the UST system is identified in any other manner, owners and operators shall perform the following initial response actions within 24 hours of a release:

- a) Report the release to ~~the ESDA~~EMA (e.g., by telephone or electronic mail);
- b) Take immediate action to prevent any further release of the regulated substance into the environment; and
- c) Identify and mitigate fire, explosion and vapor hazards.

Source: Amended at 16 Ill. Reg. effective

Section 731.162 Initial Abatement Measures and Site Check

- a) Owners and operators shall perform the following abatement measures:
 - 1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to 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 substance 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 and operator shall comply with 35 Ill. Adm. Code 722, 724, 725, and 807 and 809 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 the site check ~~required by Section 731.152(b)~~ or the closure site assessment ~~of Section 731.172(a)~~. In selecting sample types, sample locations and measurement methods, the owner and 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 731.164.
- b) Within 20 days after release confirmation, owners and operators shall submit a report to the Agency, summarizing the initial abatement steps taken under subsection (a), above, and any resulting information or data.

Source: Amended at 16 Ill. Reg. effective

SUBPART G: OUT-OF-SERVICE SYSTEMS AND CLOSURE

Section 731.170 Temporary Closure (Repealed)

- a) ~~When an UST system is temporarily closed, owners and operators shall continue operation and maintenance of corrosion protection in accordance with Section 731.131, and any release detection in accordance with Subpart D. Subparts E and F must be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system.~~
- b) ~~When an UST system is temporarily closed for 3 months or more, owners and operators shall also comply with~~

~~the following requirements:~~

- ~~1) Leave vent lines open and functioning, and~~
- ~~2) Cap and secure all other lines, pumps, manways and ancillary equipment.~~
- ~~e) When an UST system is temporarily closed for more than 12 months, owners and operators shall permanently close the UST system if it does not meet either performance standards in Section 731.120 for new UST systems or the upgrading requirements in Section 731.121, except that the spill and overfill equipment requirements do not have to be met. Owners and operators shall permanently close the substandard UST systems at the end of this 12-month period in accordance with Section 731.171 through Section 731.174.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.171 Permanent Closure and Changes-in-service
(Repealed)

- ~~a) At least 30 days before beginning either permanent closure or a change-in-service under subsections (b) or (c), owners and operators shall notify the Fire Marshal of their intent to permanently close or make the change-in-service, unless such action is in response to corrective action. The required assessment of the excavation zone under Section 731.172 must be performed after notifying the Fire Marshal but before completion of the permanent closure or a change-in-service.~~
- ~~b) To permanently close a tank, owners and operators shall empty and clean it by removing all liquids and accumulated sludges. All tanks taken out of service permanently must also be either removed from the ground or filled it with an inert solid material.~~
- ~~e) Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners and operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with Section 731.172.~~

~~BOARD NOTE: The following cleaning and closure procedures, incorporated by reference in Section 731.113, may be used to comply with this Section: API Recommended Practice 1604; API Publication 2015; API Recommended Practice 1631. NIOSH Publication No.~~

~~80-106 may be used as guidance for conducting safe closure procedures at some hazardous substance tanks.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.172 Assessing Site at Closure or
Change-in-Service (Repealed)

- a) ~~Before permanent closure or a change in service is completed, owners and operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations and measurement methods, owners and operators shall consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater and other factors appropriate for identifying the presence of a release. The requirements of this Section are satisfied if one of the external release detection methods allowed in Section 731.143(e) and (f) is operating in accordance with the requirements in Section 731.143 at the time of closure, and indicates no release has occurred.~~
- b) ~~If contaminated soils, contaminated groundwater or free product as a liquid or vapor is discovered under subsection (a), or by any other manner, owners and operators shall begin corrective action in accordance with Subpart F.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.173 Previously Closed Systems (Repealed)

~~When directed by the Fire Marshal, the owner and operator of an UST system permanently closed before December 22, 1988, shall assess the excavation zone and close the UST system in accordance with this Subpart if releases from the UST may, in the judgment of the Fire Marshal, pose a current or potential threat to human health or the environment.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.174 Closure Records (Repealed)

~~Owners and operators shall maintain records in accordance with Section 731.134 that are capable of demonstrating compliance with closure requirements under this Subpart. The results of the excavation zone assessment required in Section 731.172 must be maintained for at least 3 years after completion of permanent~~

~~closure or change in service in one of the following ways:~~

- ~~a) By the owners and operators who took the UST system out of service;~~
- ~~b) By the current owners and operators of the UST system site; or~~
- ~~c) By mailing these records to the Fire Marshal if they cannot be maintained at the closed facility.~~

Source: Repealed at 16 Ill. Reg. effective

SUBPART H: FINANCIAL RESPONSIBILITY

Section 731.190 Applicability (Repealed)

- ~~a) This Subpart applies to owners and operators of all petroleum UST systems except as otherwise provided in this Section.~~
- ~~b) Owners and operators of petroleum UST systems are subject to these requirements if they are in operation on or after the date for compliance established in Section 731.191.~~
- ~~c) State and federal government entities whose debts and liabilities are the debts and liabilities of the State of the United States are exempt from the requirements of this Subpart.~~
- ~~d) The requirements of this Subpart do not apply to owners and operators of any UST system described in Section 731.110(b) or (c).~~
- ~~e) If the owner and operator of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance. Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in Section 731.191.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.191 Compliance Dates (Repealed)

~~Owners of petroleum underground storage tanks are required to comply with the requirements of this Subpart by the following~~

dates:

- a) ~~All petroleum marketing firms owning 1,000 or more USTs and all other UST owners that report a tangible net worth of \$20 million or more to the U.S. Securities and Exchange Commission (SEC), Dun and Bradstreet, the Energy Information Administration or the Rural Electrification Administration: January 24, 1989, except that compliance with Section 730.194(b) is required by: July 24, 1989.~~
- b) ~~All petroleum marketing firms owning 100 through 999 USTs: October 26, 1989.~~
- c) ~~All petroleum marketing firms owning 13 through 99 USTs at more than one facility: April 26, 1991.~~
- d) ~~All petroleum UST owners not described in subsections (a), (b) or (c), excluding units of local government: October 26, 1991.~~
- e) ~~All units of local government: one year after the date of adoption by the Board of additional mechanisms for use by units of local government to comply with financial responsibility requirements for petroleum USTs.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.192 Definitions (Repealed)

~~When used in this Subpart, the following terms have the meanings given below:~~

~~"Accidental release" means any sudden or nonsudden release of petroleum from an underground storage tank that results in a need for corrective action or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.~~

~~"Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.~~

~~BOARD NOTE: Derived from 40 CFR 280.92, as adopted at 53 Fed. Reg. 43370, October 26, 1988, modified to~~

~~insert the Insurance Services Office definition.~~

~~"Controlling interest" means direct ownership of at least 50 percent of the voting stock of another entity.~~

~~"Director of the Implementing Agency". See Section 731.114.~~

~~"Environmental damage" means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous or thermal contaminants, irritants or pollutants.~~

~~BOARD NOTE: This term is used in the definition of "pollution incident".~~

~~"Financial reporting year" means:~~

~~The latest consecutive twelve-month period for which any of the following reports used to support a financial test is prepared:~~

~~A 10-K report submitted to the Securities Exchange Commission;~~

~~An annual report of tangible net worth submitted to Dun and Bradstreet; or~~

~~Annual reports submitted to the Energy Information Administration or the Rural Electrification Administration.~~

~~"Financial reporting year" may thus comprise a fiscal or a calendar year period.~~

~~"Legal defense cost" is any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought,~~

~~By USEPA or the State to require corrective action or to recover the costs of corrective action;~~

~~By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or~~

~~By any person to enforce the terms of a financial assurance mechanism.~~

~~"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in a~~

~~release from an underground storage tank.~~

~~BOARD NOTE: This definition is intended to assist in the understanding of these regulations and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence".~~

~~"Owner or operator", when the owner or operator are separate persons, refers to the person that is obtaining or has obtained financial assurance.~~

~~"Petroleum marketing facilities" include all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.~~

~~"Petroleum marketing firms" are all firms owning petroleum marketing facilities. Firms owning other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.~~

~~"Pollution incident" means emission, discharge, release or escape of pollutants into or upon land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release or escape results in "environmental damage". The entirety of any such emission, discharge, release or escape shall be deemed to be one "pollution incident".~~
~~"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. "Waste" includes materials to be recycled, reconditioned or reclaimed. The term "pollution incident" includes an "accidental release" or an "occurrence".~~

~~BOARD NOTE: This definition is used in the definition of "property damage."~~

~~"Property damage" means~~

~~Physical injury to, destruction of or contamination of tangible property, including all resulting loss of use of that property; or~~

~~Loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use or rendered inaccessible because of a "pollution incident".~~

~~This term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage do not include corrective action associated with releases from tanks which are covered by the policy.~~

~~BOARD NOTE: Derived from 40 CFR 280.92, as adopted at 53 Fed. Reg. 43370, October 26, 1988, modified to insert the Insurance Services Office definition.~~

~~"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in Section 731.195 through 731.203, including a guarantor, insurer, risk retention group, surety or issuer of a letter of credit.~~

~~"Substantial business relationship" means that one business entity has an ownership interest in another.~~

~~"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.~~

~~"Termination" under Section 731.197(b) means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.~~

~~(Board Note: Derived from 40 CFR 280.92(o), as adopted at 54 Fed. Reg. 47081, November 9, 1989.~~

~~"Unit of local government" is as defined in the Illinois Constitution of 1970, Art. VII, Section 1.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.193 Amount and Scope of Required Financial
Responsibility (Repealed)

- a) ~~Owners or operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third~~

~~parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following per-occurrence amounts:~~

~~1) For owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year: \$1 million.~~

~~2) For all other owners or operators of petroleum underground storage tanks: \$500,000.~~

~~b) Owners or operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:~~

~~1) For owners or operators of 1 to 100 petroleum underground storage tanks: \$1 million; and~~

~~2) For owners or operators of 101 or more petroleum underground storage tanks: \$2 million.~~

~~c) For the purposes of subsections (b) and (f) only, a "petroleum underground storage tank" means a single containment unit and does not mean combinations of single containment units.~~

~~d) Except as provided in subsection (e), if the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for:~~

~~1) Taking corrective action;~~

~~2) Compensating third parties for bodily injury and property damage caused by sudden accidental releases; or~~

~~3) Compensating third parties for bodily injury and property damage caused by nonsudden accidental releases, the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in subsection (a) and (b).~~

- e) ~~If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate required must be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.~~
- f) ~~Owners or operators shall review the amount of aggregate assurance provided whenever additional petroleum underground storage tanks are acquired or installed. If the number of petroleum underground storage tanks for which assurance must be provided exceeds 100, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the first occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.~~
- g) ~~The amounts of assurance required under this Section exclude legal defense costs.~~
- h) ~~The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.194 Allowable Mechanisms and Combinations
 (Repealed)

- a) ~~Subject to the limitations of subsections (b) and (c), an owner or operator may use any one or combination of the mechanisms listed in Sections 731.195 through 731.203 to demonstrate financial responsibility under this Subpart for one or more underground storage tanks.~~
- e) ~~An owner or operator may use self-insurance in combination with guarantee only if, for the purpose of meeting the requirements of the financial test under this Subpart, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.195 Financial Test of Self-insurance (Repealed)

~~a) An owner or operator, or guarantor, may satisfy the requirements of Section 731.193 by passing a financial test as specified in this Section. To pass the financial test of self-insurance, the owner or operator, or guarantor, shall meet the criteria of subsection (b) or (c) based on year-end financial statements for the latest completed fiscal year.~~

~~b) Financial Test~~

~~1) The owner or operator, or guarantor, shall have a tangible net worth of at least ten times:~~

~~A) The total of the applicable aggregate amount required by Section 731.193, based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility for UST systems to USEPA pursuant to 40 CFR 280, to the Fire Marshal pursuant to this Part or to implementing agencies of UST programs in other states authorized by USEPA pursuant to 40 CFR 281;~~

~~B) The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates and amount of liability coverage for which a financial test is used to demonstrate financial responsibility for hazardous waste facilities to USEPA pursuant to 40 CFR 264 or 265, to the Agency pursuant to 35 Ill. Adm. Code 724 or 725 or to other state agencies authorized by USEPA to administer hazardous waste programs pursuant to 40 CFR 271.~~

~~C) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility for underground injection wells to USEPA pursuant to 40 CFR 144, to the Agency pursuant to 35 Ill. Adm. Code 704, to the Department of Mines and Minerals pursuant to 62 Ill. Adm. Code 240 or to other state agencies authorized to administer underground injection control programs pursuant to 40 CFR 145.~~

- ~~2) The owner or operator, or guarantor, shall have a tangible net worth of at least \$10 million.~~
 - ~~3) The owner or operator, or guarantor, shall have a letter signed by the chief financial officer worded as specified in subsection (d).~~
 - ~~4) The owner or operator, or guarantor, shall either:~~
 - ~~A) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration; or~~
 - ~~B) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.~~
 - ~~5) The firm's year end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion or a "going concern" qualification.~~
- ~~c) RCRA Financial Test~~
- ~~1) The owner or operator, or guarantor shall meet the financial test requirements of 35 Ill. Adm. Code 724.247(f)(1) substituting the appropriate amounts specified in Section 731.193(b)(1) and (b)(2) for the "amount of liability coverage" each time specified in the Section.~~
 - ~~2) The fiscal year end financial statements of the owner or operator, or guarantor, must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.~~
 - ~~3) The firm's year end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.~~
 - ~~4) The owner or operator, or guarantor, shall have a letter signed by the chief financial officer, worded as specified in subsection (d).~~
 - ~~5) If the financial statements of the owner or operator, or guarantor, are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration, the owner or~~

~~operator, or guarantor, shall obtain a special report by an independent certified public accountant stating that:~~

~~A) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, or guarantor, with the amounts in such financial statements; and~~

~~B) In connection with that comparison, no matters came to the accountant's attention which caused him to believe that the specified data should be adjusted.~~

~~d) Forms.~~

~~1) The Board incorporates by reference 40 CFR 280.95(d) as adopted at 53 Fed. Reg. 43370, October 26, 1988. This Section incorporates no future editions or amendments.~~

~~2) The Fire Marshal shall promulgate forms based on the forms in 40 CFR 280.95(d), with such changes as are necessary under Illinois law.~~

~~3) The owner or operator shall use such forms if available; otherwise, the owner or operator shall use the form in 40 CFR 280.95(d), except that instructions in brackets must be replaced with the relevant information and the brackets deleted.~~

~~4) To demonstrate that it meets the financial test under subsection (b) or (c), the chief financial officer of the owner or operator, or guarantor, shall sign, within 120 days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded as provided in subsection (d)(3).~~

~~e) If an owner or operator using the test to provide financial assurance finds that the owner or operator no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator shall obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.~~

~~f) The Fire Marshal may require reports of financial condition at any time from the owner or operator, or~~

~~guarantor. If the Fire Marshal finds, on the basis of such reports or other information, that the owner or operator, or guarantor, no longer meets the financial test requirements of subsection (b) or (c) and (d), the owner or operator shall obtain alternate coverage within 30 days after notification of such a finding.~~

- ~~g) If the owner or operator fails to obtain alternate assurance within 150 days of finding that the owner or operator no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the Fire Marshal, that the owner or operator no longer meets the requirements of the financial test, the owner or operator shall notify the Fire Marshal of such failure within 10 days.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.196 Guarantee (Repealed)

- ~~a) An owner or operator may satisfy the requirements of Section 731.193 by obtaining a guarantee that conforms to the requirements of this Section. The guarantor shall have an ownership interest in the owner or operator.~~
- ~~b) Within 120 days after the close of each financial reporting year the guarantor shall demonstrate that it meets the financial test criteria of Section 731.195 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in Section 731.195(d) and shall deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the Fire Marshal notifies the guarantor that the guarantor no longer meets the requirements of the financial test of Section 731.195(b) or (c) and (d), the guarantor shall notify the owner or operator within 10 days of receiving such notification from the Fire Marshal. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternative coverage as specified in Section 731.210(c).~~

~~e) Forms.~~

- ~~1) The Board incorporates by reference 40 CFR 280.96(e) as adopted at 53 Fed. Reg. 43370, October 26, 1988. This Section incorporates no future editions or amendments.~~
 - ~~2) The Fire Marshal shall promulgate forms based on the forms in 40 CFR 280.96(e), with such changes as are necessary under Illinois law.~~
 - ~~3) The owner or operator shall use such forms if available; otherwise, the owner or operator shall use the form in 40 CFR 280.96(e), except that instructions in brackets must be replaced with the relevant information and the brackets deleted.~~
- ~~d) An owner or operator who uses a guarantee to satisfy the requirements of Section 731.193 shall establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instruction from the Fire Marshal under Section 731.208. This standby trust fund must meet the requirements specified in Section 731.203.~~
- ~~e) Additional requirements for guarantors.~~
- ~~1) The guarantor shall have a registered agent pursuant to Section 5.05 of the Business Corporation Act of 1983 (Ill. Rev. Stat. 1987, ch. 32, par. 5.05 or Section 105.05 of the General Not For Profit Corporation Act of 1986 (Ill. Rev. Stat. 1987, ch. 32, par. 105.05.~~
 - ~~2) The guarantor shall execute the guarantee in Illinois. The guarantee shall be accompanied by a letter signed by the guarantor which states that:~~
 - ~~A) The guarantee was signed in Illinois by an authorized agent of the guarantor;~~
 - ~~B) The guarantee is governed by Illinois law, and,~~
 - ~~C) The name and address of the guarantor's registered agent for service of process.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.197 Insurance or Risk Retention Group Coverage
(Repealed)

- a) ~~An owner or operator may satisfy the requirements of Section 731.193 by obtaining liability insurance that conforms to the requirements of this Section from a qualified insurer or risk retention group. Such insurance must be in the form of a separate insurance policy or an endorsement to an existing insurance policy.~~
- b) ~~Forms.~~
 - 1) ~~The Board incorporates by reference 40 CFR 280.97(b) as adopted at 53 Fed. Reg. 43370, October 26, 1988, as amended at 54 Fed. Reg. 47081, November 9, 1989. This Section incorporates no future editions or amendments.~~
 - 2) ~~The Fire Marshal shall promulgate forms based on the forms in 40 CFR 280.97(b), with such changes as are necessary under Illinois law.~~
 - 3) ~~Each insurance policy must be amended by an endorsement, or evidenced by a certificate of insurance. The owner or operator shall use the forms specified in subsection (b)(2), if available; otherwise, the owner or operator shall use the forms in 40 CFR 280.97(b), except that instructions in brackets must be replaced with the relevant information and the brackets deleted.~~
- c) ~~Each insurance policy must be issued by an insurer or a risk retention group which is licensed by the Illinois Department of Insurance.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.198 Surety Bond (Repealed)

- a) ~~An owner or operator may satisfy the requirements of Section 731.193 by obtaining a surety bond that conforms to the requirements of this Section. The surety company issuing the bond shall be licensed by the Illinois Department of Insurance.~~
- b) ~~Forms.~~
 - 1) ~~The Board incorporates by reference 40 CFR 280.98(b) as adopted at 53 Fed. Reg. 43370, October 26, 1988. This Section incorporates no~~

~~future editions or amendments.~~

- ~~2) The Fire Marshal shall promulgate forms based on the forms in 40 CFR 280.98(b), with such changes as are necessary under Illinois law.~~
- ~~3) The owner or operator shall use such forms if available; otherwise, the owner or operator shall use the form in 40 CFR 280.98(b), except that instructions in brackets must be replaced with the relevant information and the brackets deleted.~~
- ~~e) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.~~
- ~~d) The owner or operator who uses a surety bond to satisfy the requirements of Section 731.193 must establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the Fire Marshal under Section 731.208. This standby trust fund must meet the requirements specified in Section 731.203.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.199 Letter of Credit (Repealed)

- ~~a) An owner or operator may satisfy the requirements of Section 731.193 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Section. The issuing institution shall be an entity with authority to issue letters of credit and whose letter of credit operations are regulated by the Illinois Commissioner of Banks and Trust Companies.~~
- ~~b) Forms.~~
 - ~~1) The Board incorporates by reference 40 CFR 280.99(b) as adopted at 53 Fed. Reg. 43370, October 26, 1988. This Section incorporates no future editions or amendments.~~
 - ~~2) The Fire Marshal shall promulgate forms based on the forms in 40 CFR 280.99(b), with such changes as are necessary under Illinois law.~~

- 3) ~~The owner or operator shall use such forms if available; otherwise, the owner or operator shall use the form in 40 CFR 280.99(b), except that instructions in brackets must be replaced with the relevant information and the brackets deleted.~~
- e) ~~An owner or operator who uses a letter of credit to satisfy the requirements of Section 731.193 shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Fire Marshal shall be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Fire Marshal under Section 731.208. This standby trust fund must meet the requirements specified in Section 731.203.~~
- d) ~~The letter of credit must be irrevocable with a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term, unless, at least 120 days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator receives the notice, as evidenced by the return receipt.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.200 UST State Fund (Repealed)

- a) ~~Section 22.13 of the Act creates the Underground Storage Tank Fund (Fund). THE FUND IS INTENDED TO BE A STATE FUND BY WHICH PERSONS WHO QUALIFY FOR ACCESS TO THE FUND IN THE EVENT OF A RELEASE MAY SATISFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS UNDER THIS PART. (Section 22.13 of the Act.)~~
- b) ~~An owner or operator may apply to the Fire Marshal for a certificate of coverage, on forms provided by the Fire Marshal.~~
- e) ~~If the Fire Marshal determines that the owner or operator would be entitled to receive funds from the Fund in the event of a release, it shall issue a certificate of coverage. The certificate must certify:~~
 - 1) ~~Name of the owner or operator;~~

- ~~2) Name and address of the facility,~~
- ~~3) The amount of funds for corrective action or compensating third parties which is assured by the Fund,~~
- ~~4) The effective date of the certificate.~~
- ~~d) An owner or operator with a certificate is deemed in compliance with the requirements of this Subpart with respect to the facility listed in the certificate.~~
- ~~e) Owners or operators may use any financial assurance mechanism or combination of mechanisms meeting the requirements of the other Sections of this Subpart to meet the Fund requirement that they have insurance for the deductible.~~
- ~~f) IF THE AGENCY REFUSES TO REIMBURSE OR AUTHORIZES ONLY A PARTIAL REIMBURSEMENT, THE AFFECTED OWNER OR OPERATOR MAY PETITION THE BOARD FOR A HEARING pursuant to 35 Ill. Adm. Code 105. (Section 22.18b(g) of the Act).~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.202 Trust Fund (Repealed)

- ~~a) An owner or operator may satisfy the requirements of Section 731.193 by establishing a trust fund that conforms to the requirements of this Section. The trustee shall be an entity which has authority to act as trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act. (Ill. Rev. Stat. 1987, ch. 17, pars. 1551-1 et seq.)~~
- ~~b) The wording of the trust agreement must be identical to the wording specified in Section 731.203(b), and must be accompanied by a formal certification of acknowledgement as specified in Section 731.203(b). In addition, the owner or operator and trustee shall agree that Illinois law governs the trust.~~
- ~~c) The trust fund, when established, must be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining required coverage.~~
- ~~d) If the value of the trust fund is greater than the~~

~~required amount of coverage, the owner or operator may submit a written request to the Fire Marshal for release of the excess.~~

- e) ~~If other financial assurance as specified in this Subpart is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Fire Marshal for release of the excess.~~
- f) ~~Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (d) or (e), the Fire Marshal shall instruct the trustee to release to the owner or operator such funds as the Fire Marshal specifies in writing.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.203 Standby Trust Fund (Repealed)

- a) ~~An owner or operator using any one of the mechanisms authorized by Sections 731.196, 731.198 or 731.199 shall establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by the Illinois Commissioner of Banks and Trust Companies, or who complies with the Corporate Fiduciary Act. (Ill. Rev. Stat. 1987, ch. 17, pars. 1551-1 et seq.)~~
- b) ~~Forms.~~
 - 1) ~~The Board incorporates by reference 40 CFR 280.103(b) as adopted at 53 Fed. Reg. 43370, October 26, 1988 and as amended at 53 Fed. Reg. 51274, December 21, 1988. This Section incorporates no future editions or amendments.~~
 - 2) ~~The Fire Marshal shall promulgate forms based on the forms in 40 CFR 280.103(b), with such changes as are necessary under Illinois law.~~
 - 3) ~~The owner or operator shall use such forms if available; otherwise, the owner or operator shall use the form in 40 CFR 280.103(b), except that instructions in brackets must be replaced with the relevant information and the brackets deleted.~~
 - 4) ~~In addition, the owner or operator and trustee shall agree that Illinois law governs the trust.~~

- e) ~~The Fire Marshal shall instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the Fire Marshal determines that no additional corrective action costs or third party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.~~
- d) ~~An owner or operator may establish one trust fund as the depository mechanism for all funds assured in compliance with this Subpart.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.204 Substitution of Mechanisms (Repealed)

- a) ~~An owner or operator may substitute any alternate financial assurance mechanisms as specified in this Subpart, provided that at all times the owner or operator maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of Section 731.193.~~
- b) ~~After obtaining alternate financial assurance as specified in this Subpart, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.205 Cancellation or Nonrenewal by Provider
(Repealed)

- a) ~~Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.~~
 - 1) ~~Termination of a guarantee, a surety bond or a letter of credit must not occur until 120 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt, or~~
 - 2) ~~Termination of insurance or risk retention group coverage, except for non-payment or misrepresentation by the insured, or coverage by the UST State Fund under Section 731.200, must not occur until 60 days after the date on which the owner or operator receives the notice of~~

~~termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured must not occur until a minimum of 10 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.~~

~~b) If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in Section 731.206, the owner or operator shall obtain alternate coverage as specified in this Section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator shall notify the Fire Marshal of such failure and submit:—~~

- ~~1) The name and address of the provider of financial assurance;—~~
- ~~2) The effective date of termination; and—~~
- ~~3) The evidence of the financial assistance mechanism subject to the termination maintained in accordance with Section 731.207(b).—~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.206 Reporting (Repealed)

- ~~a) The owner or operator shall deposit with the Fire Marshal an original, or a signed duplicate original, of any required financial assurance document. The owner or operator shall deposit the document within 14 days after the date on which on which the operator receives the document.—~~
- ~~b) An owner or operator shall certify compliance with the financial responsibility requirements of this Part as specified in the new tank notification form when notifying the Fire Marshal of the installation of a new underground storage tank under Section 731.122.—~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.207 Recordkeeping (Repealed)

~~An owner or operator who deposits the required financial assurance documents with the Fire Marshal pursuant to Section~~

~~731.206 is not otherwise required to maintain copies of the documents or the certificate, which would be required pursuant to 40 CFR 280.107, adopted at 53 Fed. Reg. 43357, October 26, 1988.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.208 Drawing on Financial Assurance (Repealed)

~~a) The Fire Marshal shall require the guarantor, surety or institution issuing a letter of credit to place the amount of funds stipulated by the Fire marshal up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:~~

~~1) Both:~~

~~A) The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit or as applicable, other financial assurance mechanism; and~~

~~B) The Fire Marshal determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and so notifies the owner or operator or the owner or operator has notified ESDA pursuant to Subpart E or F of a release from an underground storage tank covered by the mechanism; or~~

~~2) The conditions of subsections (b)(1) or (b)(2)(A) or (B) are satisfied.~~

~~b) The Fire Marshal shall draw on a standby trust fund when:~~

~~1) The Fire Marshal makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required under Subpart F; or~~

~~2) The Fire Marshal has received either:~~

~~A) Certification from the owner or operator and third-party liability claimant and from attorneys representing the owner or operator and the third-party liability claimant that a~~

~~third-party liability claim should be paid. The Board incorporates by reference 40 CFR 280.108(b)(2)(i) as adopted at 53 Fed. Reg. 43370, October 26, 1988. This Section incorporates no future editions or amendments. The certification must be worded as provided in 40 CFR 280.108(b)(2)(i), except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. Or,~~

- ~~B) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this Subpart and the Fire Marshal determines that the owner or operator has not satisfied the judgment.~~
- ~~C) If the Fire Marshal determines that the amount of corrective action costs and third-party liability claims eligible for payment under subsection (b) may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment must be corrective action costs necessary to protect human health and the environment. The Fire Marshal shall pay third-party liability claims in the order in which the Fire Marshal receives certifications under subsection (b)(2)(A), and valid court orders under subsection (b)(2)(B).~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.209 Release from Financial Assurance Requirement
(Repealed)

~~An owner or operator is no longer required to maintain financial responsibility under this Subpart for an underground storage tank after the tank has been properly closed or, if corrective action is required, after corrective action has been completed and the tank has been properly closed as required by Subpart G.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.210 Bankruptcy or other Incapacity (Repealed)

- a) ~~Within 10 days after commencement of a voluntary or involuntary proceeding under 11 U.S.C. (Bankruptcy), naming an owner or operator as debtor, the owner or operator shall notify the Fire Marshal by certified mail of such commencement and submit the appropriate forms listed in Section 731.207(b) documenting current financial responsibility.~~
- b) ~~Within 10 days after commencement of a voluntary or involuntary proceeding under 11 U.S.C. (Bankruptcy), naming a guarantor providing financial assurance as debtor, such guarantor shall notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in Section 731.196.~~
- e) ~~An owner or operator who obtains financial assurance by a mechanism other than the financial test of self insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond or letter of credit. The owner or operator shall obtain alternate financial assurance as specified in this Subpart within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, the owner or operator shall notify the Fire Marshal.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.211 Replenishment (Repealed)

- a) ~~If at any time after a standby trust is funded upon the instruction of the Fire Marshal with funds drawn from a guarantee, letter of credit or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:—~~
 - 1) ~~Replenish the value of financial assurance to equal the full amount of coverage required, or~~
 - 2) ~~Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.~~

- b) ~~For purposes of this Section, the full amount of coverage to be provided by Section 731.193. If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment must occur by the earliest anniversary date among the mechanisms.~~

Source: Repealed at 16 Ill. Reg. effective

Section 731.Appendix A

The Board incorporates by reference 40 CFR 280, Appendix I ~~(1988), as amended at 53 Fed. Reg. 37208, September 23, 1988 (1991).~~ This Section incorporates no future editions or amendments. Persons required to notify shall use forms provided by the Fire Marshal if available. Otherwise, they may prepare forms based on 40 CFR 280, Appendix I.

Source: Amended at 16 Ill. Reg. effective

Section 731.Appendix C Statement for Shipping Tickets and Invoices

Note.-A Federal law (The Resource Conservation and Recovery Act (RCRA), as amended (Pub. L. 98-616)) requires owners of certain underground storage tanks to notify designated State or local agencies by May 8, 1986, of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986, must be made within 30 days. Consult USEPA's regulations, issued on November 8, 1985 (40 CFR 280) to determine if you are affected by this law.

Source: Added at 16 Ill. Reg. effective