**Section 888.115 Preliminary Review of Estimated Remediation Costs**

a) The Remediation Applicant for any remediation site enrolled in the Site Remediation Program may request a preliminary review of estimated remediation costs by submitting a budget plan along with the Remedial Action Plan required under 35 Ill. Adm. Code 740.450. No budget plan shall be accepted for review by the Agency unless a Remedial Action Plan satisfying the requirements of 35 Ill. Adm. Code 740.450 also has been submitted. The budget plan shall be submitted on forms prescribed and provided by the Agency and shall include, but not be limited to, the following information:

1) Identification of applicant and remediation site:

A) The full legal name, address and telephone number of the Remediation Applicant, any authorized agents acting on behalf of the Remediation Applicant, and any contact persons to whom inquiries and correspondence must be addressed;

B) The address, site name, tax parcel identification numbers and Illinois inventory identification number for the remediation site for which the River Edge Redevelopment Zone Site Remediation Tax Credit is being sought and the date of acceptance of the site into the Site Remediation Program;

C) The Federal Employer Identification Number (FEIN) or Social Security Number (SSN) of the Remediation Applicant.

2) Line item estimates of the costs that the Remediation Applicant anticipates will be incurred for the development and implementation of the Remedial Action Plan, including but not limited to:

A) Site investigation activities:

i) Drilling costs;

ii) Physical soil analysis;

iii) Monitoring well installation;

iv) Disposal costs.

B) Sampling and analysis activities:

i) Soil analysis costs;

ii) Groundwater analysis costs;

iii) Well purging costs;

iv) Water disposal costs.

C) Remedial activities:

i) Groundwater remediation costs;

ii) Excavation and disposal costs;

iii) Land farming costs;

iv) Above-ground bio-remediation costs;

v) Land application costs;

vi) Low temperature thermal treatment costs;

vii) Backfill costs;

viii) In-situ soil remediation costs.

D) Report preparation costs.

3) A certification, signed by the Remediation Applicant or authorized agent and notarized, as follows:

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of Remediation Applicant, if individual, or authorized agent of Remediation Applicant), hereby certify that neither \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("I" if Remediation Applicant is certifying or name of Remediation Applicant if authorized agent is certifying), nor any related party (as described in Section 201(n) of the Illinois Income Tax Act [35 ILCS 5/201(n)]), nor any person whose tax attributes \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("I" if Remediation Applicant is certifying or name of Remediation Applicant if authorized agent is certifying) have (has) succeeded to under section 381 of the Internal Revenue Code, caused or contributed in any material respect to the release or substantial threat of a release of regulated substances or pesticides that are identified and addressed in the Remedial Action Plan submitted for the site identified above.

4) Certification from the Department of Commerce and Economic Opportunity that the remediation site is located in a River Edge Redevelopment Zone. The certification must clearly identify the remediation site by name, address, tax parcel identification numbers, and Illinois inventory identification number.

5) The original signature of the Remediation Applicant or authorized agent acting on behalf of the Remediation Applicant.

b) Budget plans shall be mailed or delivered to the address designated by the Agency on the forms. Requests that are hand-delivered shall be delivered during the Agency's normal business hours. There is no fee for the review of budget plans under this Section.

c) The time for the Agency to review the budget plan begins on the date that the Agency receives the budget plan. The Agency's record of the date of receipt of the budget plan shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from registered or certified mail. The Remediation Applicant may waive the time for review. The time frames for the Agency review are:

1) If the budget plan is submitted with the Remedial Action Plan, the submission of the budget plan shall be deemed an automatic 60-day waiver of the applicable review period for the Remedial Action Plan, as set forth in 35 Ill. Adm. Code 740.505(d). In this instance, the Agency shall have 120 days from its receipt of the two documents to make a final determination on the two documents.

2) If the budget plan is not submitted with the Remedial Action Plan, the budget plan may not be submitted until after the Agency has made a final determination on the Remedial Action Plan. If the budget plan is submitted after the Agency has approved, or approved with conditions, the Remedial Action Plan, the Agency shall have 60 days from its receipt of the budget plan to make a final determination on the budget plan.

3) If an amended Remedial Action Plan or amended budget plan is submitted before an Agency final determination on the Remedial Action Plan and budget plan, the Agency shall have 120 days from its receipt of the amended document to make a final determination on the two documents.

4) If an amended budget plan is submitted without an amended Remedial Action Plan and after the Agency's final determination on the Remedial Action Plan, the Agency shall have 60 days from its receipt of the amended budget plan to make a final determination on the amended budget plan.

d) The Agency shall review the budget plan and the Remedial Action Plan to determine, in accordance with Sections 888.135 and 888.140 of this Part, whether the estimated costs are remediation costs. Upon completion of the preliminary review, the Agency shall notify the Remediation Applicant in writing of its final determination to approve, disapprove or modify the estimated remediation costs submitted in the budget plan.

1) If a budget plan is disapproved or approved with modification of estimated remediation costs, the written notification shall contain the following information as applicable:

A) An explanation of the specific type of information or documentation, if any, that the Agency deems the Remediation Applicant did not provide;

B) The reasons for the disapproval or modification of estimated remediation costs;

C) Citations to statutory or regulatory provisions upon which the determination is based.

2) The Agency may combine the notification of its final determination on a budget plan with the notification of its final determination on the corresponding Remedial Action Plan.

3) The Agency's notification of final determination shall be by certified or registered mail postmarked with a date stamp and with return receipt requested. The Agency's determination shall be deemed to have taken place on the postmarked date that the notice is mailed.

e) Revision and Resubmission

1) If the Agency disapproves a Remedial Action Plan or approves a Remedial Action Plan with conditions in accordance with 35 Ill. Adm. Code 740, the Agency may return the corresponding budget plan to the Remediation Applicant without review. If the Remedial Action Plan is amended as a result of the Agency action, the Remediation Applicant may submit a revised budget plan for review. No additional fee shall be required for this review.

2) If the Remedial Action Plan is amended by the Remediation Applicant and the Remediation Applicant intends to submit the Agency's final determination on the budget plan in accordance with Section 888.125(c) of this Part, the budget plan shall be revised accordingly and resubmitted for Agency review. No additional fee shall be required for this review.

f) If the Agency disapproves or modifies the budget plan or fails to issue a final determination within the applicable review period, the Remediation Applicant may, within 35 days after receipt of the final determination or expiration of the deadline, file an appeal with the Board. Appeals to the Board shall be in the manner provided for the review of permit decisions in Section 40 of the Act.

g) The Agency's acceptance of a certification that neither the Remediation Applicant, nor any related party (as described in Section 201(n) of the Illinois Income Tax Act [35 ILCS 5/201(n)]), nor any person whose tax attributes the Remediation Applicant has succeeded to under section 381 of the Internal Revenue Code, caused or contributed in any material respect to the release or substantial threat of a release for which the River Edge Redevelopment Zone Site Remediation Tax Credit is requested shall not bind the Agency or the State and shall not be used as a defense with regard to any enforcement or cost recovery actions that may be initiated by the State or any other party.