**Section 888.140 Ineligible Costs**

Costs ineligible for the River Edge Redevelopment Zone Site Remediation Tax Credit under Section 201(n) of the Illinois Income Tax Act [35 ILCS 5/201(n)] include, but are not limited to, the following:

a) Costs not incurred by the Remediation Applicant;

b) Costs incurred for activities, materials, labor, or services relative to remediation at a site other than the site for which the No Further Remediation Letter was issued;

c) Costs for remediating a release or substantial threat of a release of regulated substances or pesticides that was caused or contributed to in any material respect by the Remediation Applicant, any related party (as described in Section 201(n) of the Illinois Income Tax Act [35 ILCS 5/201(n)]), or any person whose tax attributes the Remediation Applicant has succeeded to under section 381 of the Internal Revenue Code;

d) Costs incurred before January 1, 2007, or more than 12 months before enrollment of the site in the Site Remediation Program, or after the date of issuance of a No Further Remediation Letter issued pursuant to Section 58.10 of the Act and 35 Ill. Adm. Code 740;

e) Costs associated with material improvements to the extent that such improvements are not necessary to achieve remediation objectives pursuant to an approved Remedial Action Plan in accordance with 35 Ill. Adm. Code 740.450;

f) Costs or losses resulting from business interruption;

g) Costs incurred as a result of vandalism, theft, negligence, or fraudulent activity by the Remediation Applicant or the agent of the Remediation Applicant;

h) Costs incurred as a result of negligence in the practice of professional engineering as defined in Section 4 of the Professional Engineering Practice Act of 1989 [225 ILCS 325/4];

i) Costs incurred as a result of negligence by any contractor, subcontractor, or other person providing remediation services at the site;

j) Costs associated with replacement of above-grade structures destroyed or damaged during remediation activities to the extent destruction or damage and the replacement is not necessary to achieve remediation objectives pursuant to an approved Remedial Action Plan in accordance with 35 Ill. Adm. Code 740.450;

k) Attorney fees;

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

m) Costs for repairs or replacement of equipment or tools due to neglect, improper or inadequate maintenance, improper use, loss, or theft;

n) Costs associated with activities that violate any provision of the Act or Board, Agency, or Illinois Department of Transportation regulations;

o) Costs associated with improperly installed or maintained groundwater monitoring wells;

p) Costs associated with unnecessary, irrelevant, or improperly conducted activities, including, but not limited to, data collection, testing, measurement, reporting, analysis, modeling, risk assessment, or sample collection, transportation, measurement, analysis, or testing;

q) Stand-by or demurrage costs;

r) Interest or finance costs charged as direct costs;

s) Insurance costs charged as direct costs;

t) Indirect costs for personnel, labor, materials, services, or equipment charged as direct costs;

u) Costs associated with landscaping, vegetative cover, trees, shrubs, and aesthetic considerations;

v) Costs associated with activities, materials, labor, equipment, structures, or services to the extent they are not necessary for compliance with 35 Ill. Adm. Code 740, 35 Ill. Adm. Code 742, and the approved Remedial Action Plan;

w) Costs determined to be incorrect as a result of a mathematical, billing, or accounting error;

x) Costs that are not adequately documented;

y) Costs that are determined to be unreasonable;

z) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to 35 Ill. Adm. Code 732.105 or 734.125 of the Board's regulations and Section 57.12 of the Act;

aa) Costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release or its effects in accordance with the minimum requirements of the Act and regulations;

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

cc) Handling charges for subcontractor costs that have been billed directly to the Remediation Applicant;

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

ee) Costs associated with oversight by a Remediation Applicant or a Remediation Applicant's authorized agent;

ff) Handling charges charged by persons other than the Remediation Applicant's primary contractor;

gg) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release;

hh) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply;

ii) Costs associated with the repair or replacement of potable water supply lines;

jj) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines;

kk) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment;

ll) Costs associated with corrective action to achieve remediation objectives that are more stringent than Tier 2 remediation objectives developed in accordance with 35 Ill. Adm. Code 742;

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